

LEAGUE OF NATIONS

**ARBITRATION,
SECURITY AND REDUCTION
OF ARMAMENTS**

**Documents and Proceedings of the
FIFTH ASSEMBLY
(September 1924)**

**League of Nations
Secretariat,**

LEAGUE OF NATIONS

**ARBITRATION,
SECURITY AND REDUCTION
OF ARMAMENTS**

**Documents and Proceedings of the
FIFTH ASSEMBLY
(September 1924)**

**Information Section,
League of Nations Secretariat,
GENEVA,
October 31st, 1924.**

CONTENTS

	Page
INTRODUCTORY NOTE	
I. Resolution adopted by the Fifth Assembly, September 6th, 1923	7
II. Protocol for the Pacific Settlement of International Disputes	8
III. General Report on the Protocol submitted to the Fifth Assembly:	
(a) Introduction: Historical Summary	21
(b) Analysis of the Scheme:	
i. Work of the First Committee	29
ii. Work of the Third Committee	57
(c) Conclusion	72
IV. Final Assembly Debates:	
Speeches by:	
M. POLITIS, former Minister for Foreign Affairs and First Delegate of Greece; Rapporteur of the First Committee	73
Dr. BENES, Minister for Foreign Affairs and First Delegate of Czechoslovakia; Rapporteur of the Third Committee	87
Jonkheer J. LOUDON, former Minister for Foreign Affairs, Delegate of the Netherlands	97
M. ARISTIDE BRIAND, Delegate of France	103
Lord PARMOOR, Lord President of the Council, First Delegate of the British Empire	111
M. SCIALOJA, former Minister for Foreign Affairs, Delegate of Italy	118
M. QUIÑONES DE LEÓN, Ambassador in Paris and First Delegate of Spain	121
M. PAUL HYMANS, Minister for Foreign Affairs and First Delegate of Belgium	123
M. ENCKELL, former Minister for Foreign Affairs, Delegate of Finland	130
Viscount ISHII, Ambassador to France and First Delegate of Japan	132

**RESOLUTION ADOPTED
BY THE FIFTH ASSEMBLY**

on September 6th, 1924.

The Assembly,

Noting the declarations of the Governments represented,
Observes with satisfaction that they contain the basis of an
understanding tending to establish a secure peace, and

Decides as follows :

With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

1. The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require.

prejudice to the right of any State, when acceding to the special protocol provided for in the said article and opened for signature on December 16th, 1920, to make reservations compatible with the said clause.

Accession to this special protocol, opened for signature on December 16th, 1920, must be given within the month following the coming into force of the present Protocol.

States which accede to the present Protocol after its coming into force must carry out the above obligation within the month following their accession.

Article 4.

With a view to render more complete the provisions of paragraphs 4, 5, 6, and 7 of Article 15 of the Covenant, the signatory States agree to comply with the following procedure :

1. If the dispute submitted to the Council is not settled by it as provided in paragraph 3 of the said Article 15, the Council shall endeavour to persuade the parties to submit the dispute to judicial settlement or arbitration.
2. (a) If the parties cannot agree to do so, there shall, at the request of at least one of the parties, be constituted a Committee of Arbitrators. The Committee shall so far as possible be constituted by agreement between the parties.
(b) If within the period fixed by the Council the parties have failed to agree, in whole or in part, upon the number, the names and the powers of the arbitrators and upon the procedure, the Council shall settle the points remaining in suspense. It shall with the utmost possible despatch select in consultation with the parties the arbitrators and their President from among persons who by their nationality, their personal character and their experience, appear to it to furnish the highest guarantees of competence and impartiality.

(c) After the claims of the parties have been formulated, the Committee of Arbitrators, on the request of any party, shall through the medium of the Council request an advisory opinion upon any points of law in dispute from the Permanent Court of International Justice, which in such case shall meet with the utmost possible despatch.

3. If none of the parties asks for arbitration, the Council shall again take the dispute under consideration. If the Council reaches a report which is unanimously agreed to by the members thereof other than the representatives of any of the parties to the dispute, the signatory States agree to comply with the recommendations therein.
4. If the Council fails to reach a report which is concurred in by all its members, other than the representatives of any of the parties to the dispute, it shall submit the dispute to arbitration. It shall itself determine the composition, the powers and the procedure of the Committee of Arbitrators and, in the choice of the arbitrators, shall bear in mind the guarantees of competence and impartiality referred to in paragraph 2 (b) above.
5. In no case may a solution upon which there has already been a unanimous recommendation of the Council accepted by one of the parties concerned be again called in question.
6. The signatory States undertake that they will carry out in full good faith any judicial sentence or arbitral award that may be rendered and that they will comply, as provided in paragraph 3 above, with the solutions recommended by the Council. In the event of a State failing to carry out the above undertakings, the Council shall exert all its influence to secure compliance therewith. If it fails therein, it shall propose what steps should be taken to give effect thereto, in accordance with the provision contained at the end of Article 13 of the Covenant. Should a State in disregard of the above undertakings resort to war, the sanctions provided

for by Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol, shall immediately become applicable to it.

7. The provisions of the present article do not apply to the settlement of disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly.

Article 5.

The provisions of paragraph 8 of Article 15 of the Covenant shall continue to apply in proceedings before the Council.

If in the course of an arbitration, such as is contemplated in Article 4 above, one of the parties claims that the dispute, or part thereof, arises out of a matter which by international law is solely within the domestic jurisdiction of that party, the arbitrators shall on this point take the advice of the Permanent Court of International Justice through the medium of the Council. The opinion of the Court shall be binding upon the arbitrators, who, if the opinion is affirmative, shall confine themselves to so declaring in their award.

If the question is held by the Court or by the Council to be a matter solely within the domestic jurisdiction of the State, this decision shall not prevent consideration of the situation by the Council or by the Assembly under Article 11 of the Covenant.

Article 6.

If in accordance with paragraph 9 of Article 15 of the Covenant a dispute is referred to the Assembly, that body shall have for the settlement of the dispute all the powers conferred upon the Council as to endeavouring to reconcile the parties in the manner laid down in paragraphs 1, 2 and 3 of Article 15 of the Covenant and in paragraph 1 of Article 4 above.

Should the Assembly fail to achieve an amicable settlement :

If one of the parties asks for arbitration, the Council shall proceed to constitute the Committee of Arbitrators in the manner provided in sub-paragraphs (a), (b) and (c) of paragraph 2 of Article 4 above.

If no party asks for arbitration, the Assembly shall again take the dispute under consideration and shall have in this connection the same powers as the Council. Recommendations embodied in a report of the Assembly, provided that it secures the measure of support stipulated at the end of paragraph 10 of Article 15 of the Covenant, shall have the same value and effect, as regards all matters dealt with in the present Protocol, as recommendations embodied in a report of the Council adopted as provided in paragraph 3 of Article 4 above.

If the necessary majority cannot be obtained, the dispute shall be submitted to arbitration and the Council shall determine the composition, the powers and the procedure of the Committee of Arbitrators as laid down in paragraph 4 of Article 4 above.

Article 7.

In the event of a dispute arising between two or more signatory States, these States agree that they will not, either before the dispute is submitted to proceedings for pacific settlement or during such proceedings, make any increase of their armaments or effectives which might modify the position established by the Conference for the Reduction of Armaments provided for by Article 17 of the present Protocol, nor will they take any measure of military, naval, air, industrial or economic mobilisation, nor, in general, any action of a nature likely to extend the dispute or render it more acute.

It shall be the duty of the Council, in accordance with the provisions of Article 11 of the Covenant, to take under consideration any complaint as to infraction of the above undertakings which is made to it by one or more of the States parties to the dispute. Should the Council be of opinion that the complaint

requires investigation, it shall, if it deems it expedient, arrange for enquiries and investigations in one or more of the countries concerned. Such enquiries and investigations shall be carried out with the utmost possible despatch and the signatory States undertake to afford every facility for carrying them out.

The sole object of measures taken by the Council as above provided is to facilitate the pacific settlement of disputes and they shall in no way prejudice the actual settlement.

If the result of such enquiries and investigations is to establish an infraction of the provisions of the first paragraph of the present article, it shall be the duty of the Council to summon the State or States guilty of the infraction to put an end thereto. Should the State or States in question fail to comply with such summons, the Council shall declare them to be guilty of a violation of the Covenant or of the present Protocol, and shall decide upon the measures to be taken with a view to end as soon as possible a situation of a nature to threaten the peace of the world.

For the purposes of the present article decisions of the Council may be taken by a two-thirds majority.

Article 8.

The signatory States undertake to abstain from any act which might constitute a threat of aggression against another State.

If one of the signatory States is of opinion that another State is making preparations for war, it shall have the right to bring the matter to the notice of the Council.

The Council, if it ascertains that the facts are as alleged, shall proceed as provided in paragraphs 2, 4 and 5 of Article 7.

Article 9.

The existence of demilitarised zones being calculated to prevent aggression and to facilitate a definite finding of the nature provided for in Article 10 below, the establishment of such zones between States mutually consenting thereto is recommended as a means of avoiding violations of the present Protocol.

The demilitarised zones already existing under the terms of certain treaties or conventions, or which may be established in future between States mutually consenting thereto, may, at the request and at the expense of one or more of the conterminous States, be placed under a temporary or permanent system of supervision to be organised by the Council.

Article 10.

Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor. Violation of the rules laid down for a demilitarised zone shall be held equivalent to resort to war.

In the event of hostilities having broken out, any State shall be presumed to be an aggressor, unless a decision of the Council, which must be taken unanimously, shall otherwise declare :

- (1) if it has refused to submit the dispute to the procedure of pacific settlement provided by Articles 13 and 15 of the Covenant as amplified by the present Protocol, or to comply with a judicial sentence or arbitral award or with a unanimous recommendation of the Council, or has disregarded a unanimous report of the Council, a judicial sentence or an arbitral award recognising that the dispute between it and the other belligerent State arises out of a matter which by international law is solely within the domestic jurisdiction of the latter State ; nevertheless, in the last case the State shall only be presumed to be an aggressor if it has not previously submitted the question to the Council or the Assembly, in accordance with Article 11 of the Covenant ;
- (2) if it has violated provisional measures enjoined by the Council for the period while the proceedings are in progress as contemplated by Article 7 of the present Protocol.

Apart from the cases dealt with in paragraphs 1 and 2 of the present article, if the Council does not at once succeed in determining the aggressor, it shall be bound to enjoin upon the

belligerents an armistice, and shall fix the terms, acting, if need be, by a two-thirds majority, and shall supervise its execution.

Any belligerent which has refused to accept the armistice or has violated its terms shall be deemed an aggressor.

The Council shall call upon the signatory States to apply forthwith against the aggressor the sanctions provided by Article II of the present Protocol, and any signatory State thus called upon shall thereupon be entitled to exercise the rights of a belligerent.

Article II.

As soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 of the present Protocol, the obligations of the said States, in regard to the sanctions of all kinds mentioned in paragraphs 1 and 2 of Article 16 of the Covenant will immediately become operative in order that such sanctions may forthwith be employed against the aggressor.

These obligations shall be interpreted as obliging each of the signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations, and in resistance to any act of aggression, in the degree which its geographical position and its particular situation as regards armaments allow.

In accordance with paragraph 3 of Article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State.

If both parties to the dispute are aggressors within the meaning of Article 10, the economic and financial sanctions shall be applied to both of them.

Article 12.

In view of the complexity of the conditions in which the Council may be called upon to exercise the functions mentioned in Article 11 of the present Protocol concerning economic and financial sanctions, and in order to determine more exactly the guarantees afforded by the present Protocol to the signatory States, the Council shall forthwith invite the economic and financial organisations of the League of Nations to consider and report as to the nature of the steps to be taken to give effect to the financial and economic sanctions and measures of co-operation contemplated in Article 16 of the Covenant and in Article 11 of this Protocol.

When in possession of this information, the Council shall draw up through its competent organs :

1. Plans of action for the application of the economic and financial sanctions against an aggressor State ;
2. Plans of economic and financial co-operation between a State attacked and the different States assisting it ;

and shall communicate these plans to the Members of the League and to the other signatory States.

Article 13.

In view of the contingent military, naval and air sanctions provided for by Article 16 of the Covenant and by Article 11 of the present Protocol, the Council shall be entitled to receive undertakings from States determining in advance the military, naval and air forces which they would be able to bring into action immediately to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol.

Furthermore, as soon as the Council has called upon the signatory States to apply sanctions, as provided in the last paragraph of Article 10 above, the said States may, in accordance with any agreements which they may previously have concluded, bring

to the assistance of a particular State, which is the victim of aggression, their military, naval and air forces.

The agreements mentioned in the preceeding paragraph shall be registered and published by the Secretariat of the League of Nations. They shall remain open to all States Members of the League which may desire to accede thereto.

Article 14.

The Council shall alone be competent to declare that the application of sanctions shall cease and normal conditions be re-established.

Article 15.

In conformity with the spirit of the present Protocol, the signatory States agree that the whole cost of any military, naval or air operations undertaken for the repression of an aggression under the terms of the Protocol, and reparation for all losses suffered by individuals, whether civilians or combatants, and for all material damage caused by the operations of both sides, shall be borne by the aggressor State up to the extreme limit of its capacity.

Nevertheless, in view of Article 10 of the Covenant, neither the territorial integrity nor the political independence of the aggressor State shall in any case be affected as the result of the application of the sanctions mentioned in the present Protocol.

Article 16.

The signatory States agree that in the event of a dispute between one or more of them and one or more States which have not signed the present Protocol and are not Members of the League of Nations, such non-Member States shall be invited, on the conditions contemplated in Article 17 of the Covenant, to submit, for the purpose of a pacific settlement, to the obligations accepted by the States signatories of the present Protocol.

If the State so invited, having refused to accept the said conditions and obligations, resorts to war against a signatory State the provisions of Article 16 of the Covenant, as defined by the present Protocol, shall be applicable against it.

Article 17.

The signatory States undertake to participate in an International Conference for the Reduction of Armaments which shall meet at Geneva on Monday, June 15th, 1925. All other States, whether Members of the League or not, shall be invited to this Conference.

In preparation for the convening of the Conference, the Council shall draw up with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments, which shall be laid before the Conference and which shall be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained.

Article 18.

Wherever mention is made in Article 10, or in any other provision of the present Protocol, of a decision of the Council, this shall be understood in the sense of Article 15 of the Covenant, namely, that the votes of the representatives of the parties to the dispute shall not be counted when reckoning unanimity or the necessary majority.

Article 19.

Except as expressly provided by its terms, the present Protocol shall not affect in any way the rights and obligations of Members of the League as determined by the Covenant.

Article 20.

Any dispute as to the interpretation of the present Protocol shall be submitted to the Permanent Court of International Justice.

Article 21.

The present Protocol, of which the French and English texts are both authentic, shall be ratified.

The deposit of ratifications shall be made at the Secretariat of the League of Nations as soon as possible.

States of which the seat of government is outside Europe will be entitled merely to inform the Secretariat of the League of Nations that their ratification has been given ; in that case, they must transmit the instrument of ratification as soon as possible.

So soon as the majority of the permanent Members of the Council and ten other Members of the League have deposited or have effected their ratifications, a *procès-verbal* to that effect shall be drawn up by the Secretariat.

After the said *procès-verbal* has been drawn up, the Protocol shall come into force as soon as the plan for the reduction of armaments has been adopted by the Conference provided for in Article 17.

If within such period after the adoption of the plan for the reduction of armaments as shall be fixed by the said Conference, the plan has not been carried out, the Council shall make a declaration to that effect ; this declaration shall render the present Protocol null and void.

The grounds on which the Council may declare that the plan drawn up by the International Conference for the Reduction of

Armaments has not been carried out, and that in consequence the present Protocol has been rendered null and void, shall be laid down by the Conference itself.

A signatory State which, after the expiration of the period fixed by the Conference, fails to comply with the plan adopted by the Conference, shall not be admitted to benefit by the provisions of the present Protocol.

In faith whereof the Undersigned, duly authorised for this purpose, have signed the present Protocol.

DONE at Geneva, on the second day of October, nineteen hundred and twenty-four, in a single copy, which will be kept in the archives of the Secretariat of the League and registered by it on the date of its coming into force.

—
SERVANTS OF INDIA SOCIETY'S
BRANCH LIBRARY
BOMBAY

III

**GENERAL REPORT ON THE PROTOCOL
SUBMITTED TO THE FIFTH ASSEMBLY**

I. — Introduction.

After being examined for several years by the Third Committee, the problem of the reduction of armaments has this year suddenly assumed a different, a wider and even an unexpected form.

Last year a draft Treaty of Mutual Assistance was prepared, which the Assembly sent to the Members of the League for their

consideration. The replies from the Governments were to be examined by the Fifth Assembly.

At the very beginning of its work, however, after a memorable debate, the Assembly indicated to the Third Committee a new path. On September 6th 1924, on the proposal of the Prime Ministers of France and Great Britain, M. Edouard Herriot and Mr. Ramsay MacDonald, the Assembly adopted the following resolution :

“ The Assembly,

“ Noting the declarations of the Governments represented, observes with satisfaction that they contain the basis of an understanding tending to establish a secure peace,

“ Decides as follow :

“ With a view to reconciling in the new proposals the divergences between certain points of view which have been expressed and, when agreement has been reached, to enable an international conference upon armaments to be summoned by the League of Nations at the earliest possible moment :

“ (1) The Third Committee is requested to consider the material dealing with security and the reduction of armaments, particularly the observations of the Governments on the draft Treaty of Mutual Assistance, prepared in pursuance of Resolution XIV of the Third Assembly and other plans prepared and presented to the Secretary-General since the publication of the draft Treaty, and to examine the obligations contained in the Covenant of the League in relation to the guarantees of security which a resort to arbitration and a reduction of armaments may require :

“ (2) The First Committee is requested :

“ (a) To consider, in view of possible amendments, the articles in the Covenant relating to the settlement of disputes ;

“ (b) To examine within what limits the terms of Article 36, paragraph 2, of the Statute establishing the

Permanent Court of International Justice might be rendered more precise and thereby facilitate the more general acceptance of the clause ;

and thus strengthen the solidarity and the security of the nations of the world by settling by pacific means all disputes which may arise between States.”

This resolution had two merits, first, that of briefly summarising all the investigations made in the last four years by the different organisations of the League in their efforts to establish peace and bring about the reduction of armaments, and, secondly, that of indicating the programme of work of the Committees in the hope that, with the aid of past experience, they would at last attain the end in view.

The Assembly had assigned to each Committee a distinct and separate task ; to the First Committee, the examination of the pacific settlement of disputes by methods capable of being applied in every case ; to the Third Committee, the question of the security of nations considered as a necessary preliminary condition for the reduction of their armaments.

Each Committee, after a general discussion which served to detach the essential elements from the rest of the problem, referred the examination of its programme to a Sub-Committee, which devoted a large number of meetings to this purpose.

The proposals of the Sub-Committees then led to very full debates by the Committees, which terminated in the texts analysed below.

As, however, the questions submitted respectively to the two Committees form part of an indivisible whole, contact and collaboration had to be established between the Committees by means of a Mixed Committee of nine members and finally by a joint Drafting Committee of four members.

For the same reason, the work of the Committees has resulted in a single draft protocol accompanied by two draft resolutions for which the Committees are jointly responsible.

Upon these various texts, separate reports were submitted, which, being approved by the Committees respectively responsible

for them, may be considered as an official commentary by the Committees.

These separate reports have here been combined in order to present as a whole the work accomplished by the two Committees and to facilitate explanation.

Before entering upon an analysis of the proposed texts, it is expedient to recall, in a brief historical summary, the efforts of the last four years, of which the texts are the logical conclusion.

HISTORICAL STATEMENT.

The problem of the reduction of armaments is presented in Article 8 of the Covenant in terms which reveal at the outset the complexity of the question and which explain the tentative manner in which the subject has been treated by the League of Nations in the last few years.

“ The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.”

Here we see clearly expressed the need of reducing the burden which armaments imposed upon the nations immediately after the war and of putting a stop to the competition in armaments, which was, in itself, a threat to the peace of the world. But, at the same time, there is recognised the duty of safeguarding the national security of the Members of the League and of safeguarding it, not only by the maintenance of a necessary minimum of troops, but also by the co-operation of all the nations, by a vast organisation for peace.

Such is the meaning of the Covenant, which, while providing for reduction of armaments properly so called, recognises at the same time the need of *common action*, by all the Members of the League, with a view to compelling a possible disturber of the peace to respect his *international obligations*.

Thus, in this first paragraph of Article 8, which is so short but so pregnant, mention is made of all the problems which have engaged the attention of our predecessors and ourselves and which the present Assembly has specially instructed us to solve, the problems of *collective security* and the *reduction of armaments*.

Taking up Article 8 of the Covenant, the First Assembly had already outlined a programme. At its head it placed a pronouncement of the Supreme Council :

“ In order to diminish the economic difficulties of Europe, armies should everywhere be reduced to a peace footing. Armaments should be limited to the lowest possible figure compatible with national security. ”

The Assembly also called attention to a resolution of the International Financial Conference of Brussels held a short time before :

“ Recommending to the Council of the League of Nations the desirability of conferring at once with the several Governments concerned with a view to securing a general reduction of the crushing burdens which, on their existing scale, armaments still impose on the impoverished peoples of the world, sapping their resources and imperilling their recovery from the ravages of war. ”

It also requested its two Advisory Commissions to set to work at once to collect the necessary information regarding the problem referred to in Article 8 of the Covenant.

From the beginning the work of the Temporary Mixed Commission and of the Permanent Advisory Commission revealed the infinite complexity of the question.

The Second Assembly limited its resolutions to the important, but none the less (if one may say so) secondary, questions of traffic in arms and their manufacture by private enterprise. It only touched upon the questions of military expenditure and budgets in the form of recommendations and, as regards the main question of reduction of armaments, it confined itself to asking the Temporary Mixed Commission to formulate a definite scheme.

It was between the Second and Third Assemblies that the latter Commission, which was beginning to get to grips with the various problems, revealed their constituent elements. In its report it placed on record that :

“ The memory of the world war was still maintaining in in many countries a feeling of insecurity, which was represented in the candid statements in which, at the request of the Assembly, several of them had put forward the requirements of their national security, and the geographical and political considerations which contributed to shape their policy in the matter of armaments. ”

At the same time, however, the Commission stated :

“ Consideration of these statements as a whole has clearly revealed not only the sincere desire of the Governments to reduce national armaments and the corresponding expenditure to a minimum, but also the importance of the results achieved. These facts ” — according to the Commission — “ are indisputable, and are confirmed, moreover, by the replies received from Governments to the Recommendation of the Assembly regarding the limitation of military expenditure. ”

That is the point we had reached *two years ago* ; there was a *unanimous desire to reduce armaments*. Reductions, though as yet inadequate, had been begun, and there was a *still stronger desire to ensure the security of the world* by a stable and permanent organisation for peace.

That was the position which, after long discussion, gave rise at the Third Assembly to the *famous Resolution XIV* and at the Fourth Assembly to the *draft Treaty of Mutual Assistance*, for which we are now substituting the Protocol submitted to the Fifth Assembly.

What progress has been made during these four years ?

Although the Treaty of Mutual Assistance was approved in principle by eighteen Governments, it gave rise to certain misgivings. We need only recall the most important of these, hoping that a comparison between them and analysis of the new scheme will demonstrate that the First and Third Committees have endea-

voured, with a large measure of success, to dispose of the objections raised and that the present scheme consequently represents an immense advance on anything that has hitherto been done.

In the first place, a number of Governments or delegates to the Assembly argued that the guarantees provided by the draft Treaty of Mutual Assistance did not imply with sufficient definiteness the reduction of armaments which is the ultimate object of our work.

The idea of the Treaty was to give effect to Article 8 of the Covenant, but many persons considered that it did not, in fact, secure the automatic execution of that article. Even if a reduction of armaments was achieved by its means, the amount of the reduction was left, so the opponents of the Treaty urged, to the estimation of each Government, and there was nothing to show that it would be considerable.

With equal force many States complained that no provision had been made for the development of the *juridical and moral elements of the Covenant* by the side of material guarantees. The novel character of the charter given to the nations in 1919 lay essentially in the advent of a moral solidarity which foreshadowed the coming of a new era. That principle ought to have, as its natural consequence, the extension of arbitration and international jurisdiction, without which no human society can be solidly grounded. A considerable portion of the Assembly asked that efforts should also be made in this direction. The draft Treaty seemed from this point of view to be insufficient and ill-balanced.

Finally, the articles relating to partial treaties gave rise, as you are aware, to certain objections. Several Governments considered that they would lead to the establishment of groups of Powers animated by hostility towards other Powers or groups of Powers and that they would cause political tension. The absence of the barriers of compulsory arbitration and judicial intervention was evident here as everywhere else.

Thus, by a logical and gradual process, there was elaborated the system at which we have now arrived.

The reduction of armaments required by the Covenant and

demanded by the general situation of the world to-day led us to consider the question of security as a necessary complement to disarmament.

The support demanded from different States by other States less favourably situated had placed the former under the obligation of asking for a sort of moral and legal guarantee that the States which have to be supported would act in perfect good faith and would always endeavour to settle their disputes by pacific means.

It became evident, however, with greater clearness and force than ever before, that if the security and effective assistance demanded in the event of aggression was the condition *sine qua non* of the reduction of armaments, it was at the same time the necessary complement of the pacific settlement of international disputes, since the non-execution of a sentence obtained by pacific methods of settlement would necessarily drive the world back to the system of armed force. Sentences imperatively required sanctions or the whole system would fall to the ground.

Arbitration was therefore considered by the Fifth Assembly to be the necessary third factor, the complement of the two others with which it must be combined in order to build up the new system set forth in the Protocol.

Thus, after five years' hard work, we have decided to propose to the Members of the League *the present system of arbitration, security and reduction of armaments* — a system which we regard as being complete and sound.

That is the position with which the Fifth Assembly has to deal to-day. The desire to arrive at a successful issue is unanimous. A great number of the decisions adopted in the past years have met with general approval. There has arisen a thoroughly clear appreciation of the undoubted gaps which have to be filled and of the reasonable apprehensions which have to be dissipated. Conditions have therefore become favourable for arriving at an agreement.

An agreement has been arrived at on the basis of the draft Protocol which is now submitted to you for consideration.

II. — ANALYSIS OF THE SCHEME

1. Work of the First Committee

(*Rapporteur* : M. POLITIS)

Draft Protocol for the Pacific Settlement of International Disputes.

Preamble.

The object of the Protocol, which is based upon the resolution of September 6th, 1924, is to facilitate the reduction and limitation of armaments provided for in Article 8 of the Covenant of the League of Nations by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war.

The general ideas are summarised in the preamble of the Protocol.

COMPULSORY ARBITRATION

(*Articles 1 to 6, 10, 16, 18 and 19 of the Protocol.*)

I. INTRODUCTION.

Compulsory arbitration is the fundamental basis of the proposed system. It has seemed to be the only means of attaining the ultimate aim pursued by the League of Nations, viz. the establishment of a pacific and legal order in the relations between peoples.

The realisation of this great ideal, to which humanity aspires with a will which has never been more strongly affirmed, pre-supposes, as an indispensable condition, the elimination of war, the extension of the rule of law and the strengthening of the sentiment of justice.

The Covenant of the League of Nations erected a wall of protection around the peace of the world, but it was a first attempt at international organisation and it did not succeed in closing the circle sufficiently thoroughly to leave no opening for war. It reduced the number of possible wars. It did not condemn them all. There were some which it was forced to tolerate. Consequently, there remained, in the system which it established, numerous fissures, which constituted a grave danger to peace.

The new system of the Protocol goes further. It closes the circle drawn by the Covenant; it prohibits all wars of aggression. Henceforth no purely private war between nations will be tolerated.

This result is obtained by strengthening the pacific methods of procedure laid down in the Covenant. The Protocol completes them and extends them to all international disputes without exception, by making arbitration compulsory.

In reality, the word "arbitration" is used here in a somewhat different sense from that which it has generally had up to now. It does not exactly correspond with the definition given by the Hague Conferences which, codifying a century-old custom, saw in it "the settlement of disputes between States by judges of their own choice and on the basis of respect for law" (Article 37 of the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes).

The arbitration which is now contemplated differs from this classic arbitration in various respects :

(a) It is only part of a great machinery of pacific settlement. It is set up under the auspices and direction of the Council of the League of Nations.

(b) It is not only an instrument for the administration of justice. It is, in addition and above all, an instrument of peace. The arbitrators must no doubt seek in the first place to apply the rules and principles of international law. This is the reason why, as will be seen below, they are bound to consult the Permanent Court of International Justice if one of the parties so requests. But if international law furnishes

no rule or principle applicable to the particular case, they cannot, like ordinary arbitrators, refuse to give a decision. They are bound to proceed on grounds of equity, for in our system arbitration is always of necessity to lead a definitive solution of the dispute. This is not to be regretted, for to ensure the respect of law by nations it is necessary first that they should be assured of peace.

(c) It does not rest solely upon the loyalty and good faith of the parties. To the moral and legal force of an ordinary arbitration is added the actual force derived from the international organisation of which the kind of arbitration in question forms one of the principal elements; the absence of a sanction which has impeded the development of compulsory arbitration is done away with under our system.

In the system of the Protocol, the obligation to submit disputes to arbitration is sound and practical because it has always a sanction. Its application is automatically ensured, by means of the intervention of the Council; in no case can it be thrown on one side through the ill-will of one of the disputant States. The awards to which it leads are always accompanied by a sanction, adapted to the circumstances of the case and more or less severe according to the degree of resistance offered to the execution of the sentence.

2. NATURE OF THE RULES OF THE PROTOCOL.

Article I.

The rules laid down in the Protocol do not all have the same scope or value for the future.

As soon as the Protocol comes into force, its provisions will become compulsory as between the signatory States, and in its dealings with them the Council of the League of Nations will at once be able to exercise all the rights and fulfil all the duties conferred upon it.

As between the States Members of the League of Nations, the Protocol may in the first instance create a dual regime, for, if it is not immediately accepted by them all, the relations between signatories and non-signatories will still be governed by the Covenant alone while the relations between signatories will be governed by the Protocol as well.

But this situation cannot last. Apart from the fact that it may be hoped that all Members of the League will adhere to it, the Protocol is in no sense designed to create among the States which accept it a restricted League capable of competing with or opposing in any way the existing League. On the contrary, such of its provisions as relate to articles of the Covenant will, as soon as possible, be made part of the general law by amendment of the Covenant effected in accordance with the procedure for revision laid down in Article 26 thereof. The signatory States which are Members of the League of Nations undertake to make every effort to this end.

When the Covenant has been amended in this way, some parts of the Protocol will lose their value as between the said States ; some of them will have enriched the Covenant, while others, being temporary in character, will have lost their object.

The whole Protocol will remain applicable to relations between signatory States which are Members of the League of Nations and signatory States outside the League, or between States coming within the latter category.

It should be added that, as the League realises its aim of universality, the amended Covenant will take the place, as regards all States, of the separate regime of the Protocol.

3. CONDEMNATION OF AGGRESSIVE WAR.

Article 2.

The general principle of the Protocol is the prohibition of aggressive war.

Under the Covenant, while the old unlimited right of States to make war is restricted, it is not abolished. There are cases in

which the exercise of this right is tolerated ; some wars are prohibited and others are legitimate.

In future the position will be different. In no case is any State signatory of the Protocol entitled to undertake on its own sole initiative an offensive war against another signatory State or against any non-signatory State which accepts all the obligations assumed by the signatories under the Protocol.

The prohibition affects only aggressive war. It does not, of course, extend to defensive war. The right of legitimate self-defence continues, as it must, to be respected. The State attacked retains complete liberty to resist by all means in its power any acts of aggression of which it may be the victim. Without waiting for the assistance which it is entitled to receive from the international community, it may and should at once defend itself with its own force. Its interests are identified with the general interest. This is a point there can be no doubt.

The same applies when a country employs force with the consent of the Council or the Assembly of the League of Nations under the provisions of the Covenant and the Protocol. This eventuality may arise in two classes of cases : either a State may take part in the collective measures of force decided upon by the League of Nations in aid of one of its Members which is the victim of aggression ; or a State may employ force with the authorisation of the Council or the Assembly in order to enforce a decision given in its favour. In the former case, the assistance given to the victim of aggression is indirectly an act of legitimate self-defence. In the latter, force is used in the service of the general interest, which would be threatened if decisions reached by a pacific procedure could be violated with impunity. In all these cases the country resorting to war is not acting on its private initiative but is in a sense the agent and the organ of the community.

It is for this reason that we have not hesitated to speak of the exceptions, authorisation of war. It has been proposed that the word " force " should be used in order to avoid any mention of " war "—in order to spare the public that disappointment which it might feel when it found that, notwithstanding the solemn

condemnation of war, war was still authorised in exceptional cases. We preferred, however, to recognise the position frankly by retaining the expression "resort to war" which is used in the Covenant. If we said "force" instead of "war", we should not be altering the facts in any way. Moreover, the confession that war is still possible in specific cases has a certain value, because the term describes a definite and well-understood situation, whereas the expression "resort to force" would be liable to be misunderstood, and also because it emphasises the value of the sanctions at the disposal of the community of States bound by the Protocol.

4. COMPULSORY JURISDICTION OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

Article 3.

The general principle of the Protocol could not be accepted unless the pacific settlement of all international disputes without distinction were made possible.

This solution has been found, in the first place, in the extension of the compulsory jurisdiction of the Permanent Court of International Justice.

According to its Statute, the jurisdiction of the Court is, in principle, optional. On the other hand, Article 36, paragraph 2 of the Statute, offers States the opportunity of making the jurisdiction compulsory in respect of all or any of the classes of legal disputes affecting: (a) the interpretation of a Treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of an international obligation; (d) the nature or extent of the reparation to be made for the breach of an international obligation. States have only to declare their intention through the special Protocol annexed to the Statute. The undertaking then holds good in respect of any other State which assumes the same obligation. It may be given either unconditionally or on condition of reciprocity on the part of several or certain States either permanently or for a fixed period.

So far such compulsory jurisdiction has only been accepted by a small number of countries. The majority of States have abstained because they did not see their way to accept compulsory jurisdiction by the Court in certain cases falling within one or another of the classes of dispute enumerated above, and because they were not sure whether, in accepting, they could make reservations to that effect.

It was for this reason that the Assembly in its resolution of September 6th, requested the First Committee to render more precise the terms of Article 36, paragraph 2, in order to facilitate its acceptance.

Careful consideration of the article has shown that it is sufficiently elastic to allow of all kinds of reservations. Since it is open to the States to accept compulsory jurisdiction by the Court in respect of certain of the classes of dispute mentioned and not to accept it in respect of the rest, it is also open to them only to accept it in respect of a portion of one of those classes; rights need not be exercised in their full extent. In giving the undertaking in question, therefore, States are free to declare that it will not be regarded as operative in those cases in which they consider it to be inadmissible.

We can imagine possible, and therefore legitimate, reservations either in connection with a certain class of dispute or, generally speaking, in regard to the precise stage at which the dispute may be laid before the Court. While we cannot here enumerate all the conceivable reservations, it may be worth to mention merely as examples those to which we referred in the course of our discussions.

From the class of disputes relating to " the interpretation of a treaty " there may be excluded, for example, disputes as to the interpretation of certain specified classes of treaty such as political treaties, peace treaties, etc.

From the class of disputes relating to " any point of international law " there may be excluded, for example, disputes as to the application of a political treaty, etc., or as to any specified question or disputes which might arise as the outcome of hostilities initiated

by one of the signatory States in agreement with the Council or the Assembly of the League of Nations.

Again, there are many possible reservations as to the precise stage at which a dispute may be laid before the Court. The most far-reaching of these would be to make the resort to the Court in connection with every dispute in respect of which its compulsory jurisdiction is recognised contingent upon the establishment of an agreement for submission of the case which, failing agreement between the parties, would be drawn up by the Court itself, the analogy of the provisions of the Hague Convention of 1907 dealing with the Permanent Court of Arbitration being thus followed.

It might also be stated that the recognition of the compulsory jurisdiction of the Court does not prevent the parties to the dispute from agreeing to resort to a preliminary conciliation procedure before the Council of the League of Nations or any other body selected by them, or to submit their disputes to arbitration in preference to going before the Court.

A State might also, while accepting compulsory jurisdiction by the Court, reserve the right of laying disputes before the Council of the League with a view to conciliation in accordance with paragraphs 1-3 of Article 15 of the Covenant, with the proviso that neither party might, during the proceedings before the Council take proceedings against the other in the Court.

It will be seen, therefore, that there is a very wide range of reservations which may be made in connection with the undertaking referred to in Article 36, paragraph 2. It is possible that apprehensions may arise lest the right to make reservations should destroy the practical value of the undertaking. There seems, however, to be no justification for such misgivings. In the first place, it is to be hoped that every Government will confine its reservations to what is absolutely essential. Secondly, it must be recognised that, however restrictive the scope of the undertaking may be, it will always be better than no undertaking at all.

The fact that the signatory States undertake to accede, even though it be with reservations, to paragraph 2 of Article 36 may therefore be held to constitute a great advance.

Such accession must take place at latest within the month following upon the coming into force or subsequent acceptance of the Protocol.

It goes without saying that such accession in no way restricts the liberty which States possess, under the ordinary law, of concluding special agreements for arbitration. It is entirely open to any two countries signatory of the Protocol which have acceded to paragraph 2 of Article 36 to extend still further, as between themselves, the compulsory jurisdiction of the Court, or to stipulate that before having recourse to its jurisdiction they will submit their disputes to a special procedure of conciliation or even to stipulate, either before or after a dispute has arisen, that it shall be brought before a special tribunal of arbitrators or before the Council of the League of Nations rather than to the Court.

It is also certain that up to the time of the coming into force or acceptance of the Protocol accession to paragraph 2 of Article 36, which will thenceforth become compulsory, will remain optional, and that if such accession has already taken place it will continue to be valid in accordance with the terms under which it was made.

The only point which may cause difficulty is the question what is the effect of accessions given in virtue of the Protocol if the latter becomes null and void. It may be asked whether such accessions are to be regarded as so intimately bound up with the Protocol that they must disappear with it. The reply must be in the negative. The sound rule of interpretation of international treaties is that, unless there is express provision to the contrary, effects already produced survive the act from which they sprang.

The natural corollary is that any State which wishes to make the duration of its accession to Article 36 dependent on the duration of the Protocol must make an express stipulation to this effect. As Article 36 permits acceptance of the engagement in question for a specified term only, a State may, when acceding, stipulate that it only undertakes to be bound during such time as the Protocol shall remain in force.

5. STRENGTHENING OF PACIFIC METHODS OF PROCEDURE.

Article 4.

We have, in the second place, succeeded in making possible the pacific settlement of all disputes by strengthening the procedure laid down in the Covenant.

Article 4, paragraph 1.

Action by the Council with a view to reconciliation. If a dispute does not come within the compulsory jurisdiction of the Permanent Court of International Justice and if the Parties have been unable to come to an agreement to refer it to the Court or to submit it to arbitration, it should, under the terms of Article 15 of the Covenant, be submitted to the Council, which will endeavour to secure a settlement by reconciling the parties. If the Council's efforts are successful, it must, so far as it considers it advisable, make public a statement giving such facts and explanations regarding the dispute and the terms of settlement thereof as it may deem appropriate.

In this connection no change has been made in the procedure laid down by the Covenant. It appeared unnecessary to specify what particular procedure should be followed. The Council is given the utmost latitude in choosing the means most appropriate for the reconciliation of the parties. It may take advice in various quarters ; it may hear expert opinions ; it may proceed to investigations or expert enquiries, whether by itself or through the intermediary of experts chosen by it ; it may even, upon application by one of the parties, constitute a special conciliation committee. The essential point is to secure, if possible, a friendly settlement of the dispute ; the actual methods to be employed are of small importance. It is imperative that nothing should in any way hamper the Council's work in the interests of peace. It is for the Council to examine the question whether it would

be expedient to draw up for its own use and bring to the notice of the Governments of the signatory States general regulations of procedure applicable to cases brought before it and designed to test the goodwill of the parties with a view to persuading them more easily to reach a settlement under its auspices.

Experience alone can show whether it will be necessary to develop the rules laid down in the first three paragraphs of Article 15 of the Covenant.

For the moment it would appear to be expedient to make no addition and to have full confidence in the wisdom of the Council, it being understood that, whether at the moment in question or at any other stage of the procedure, it will be open to the parties to come to an agreement for some different method of settlement : by way of direct understanding, constitution of a special committee of mediators or conciliators, appeal to arbitration or to the Permanent Court of International Justice.

The new procedure set up by the Protocol will be applicable only in the event of the Council's failing in its efforts at reconciliation and of the parties failing to come to an understanding in regard to the method of settlement to be adopted.

In such case, before going further, the Council must call upon the parties to submit their dispute to judicial settlement or to arbitration.

It is only in the case where this appeal — which the Council will make in the manner which appears to it most likely to secure a favourable hearing — is not listened to that the procedure will acquire the compulsory character which is necessary to make certain the final settlement of all disputes.

There are three alternatives :

- (a) Compulsory arbitration at the request of one of the parties ;
- (b) A unanimous decision by the Council ;
- (c) Compulsory arbitration enjoined by the Council.

Appropriate methods are laid down for all three cases.

Article 4, paragraph 2.

First case of Compulsory Arbitration. — If the parties, being called upon by the Council to submit their dispute to a judicial or arbitral settlement, do not succeed in coming to an agreement on the subject, there is no question of optional arbitration, but if a single party desires arbitration, arbitration immediately becomes compulsory.

The dispute is then *ipso facto* referred to a Committee of Arbitrators, which must be constituted within such time limit as the Council shall fix.

Full liberty is left to the parties themselves to constitute this Committee of Arbitrators. They may agree between themselves in regard to the number, names and powers of the arbitrators and the procedure. It is to be understood that the word "powers" is to be taken in the widest sense, including, *inter alia*, the questions to be put.

It was not considered desirable to develop this idea further. It appeared to be sufficient to state that any result which could be obtained by means of an agreement between the parties was preferable to any other solution.

It also appeared inexpedient to define precisely the powers which should be conferred upon the arbitrators. This is a matter which depends upon the circumstances of each particular case. According to the case, the arbitrators, as is said above, may fill the rôle of judges giving decisions of pure law or may have the functions of arranging an amicable settlement with power to take account of considerations of equity.

It has not been thought necessary to lay this down in the form of a rule. It has appeared preferable to leave it in each case to the parties to agree between themselves to decide the matter according to the circumstances of the case.

Nevertheless, consideration has been given to the possibility that the arbitrators need not necessarily be jurists. It has therefore been decided that, when called upon to deal with points of law they shall, if one of the parties so desires, request, through the

medium of the Council, the advisory opinion of the Permanent Court of International Justice, which must, in such a case, meet with the utmost possible despatch. The opinion of the Court is obtained for the assistance of the arbitrators; it is not legally binding upon them, although its scientific authority must, in all cases, exercise a strong influence upon their judgment. With a view to preventing abusively frequent consultations of this kind, it is understood that the opinion of the Court in regard to disputed points of law can only be asked on a single occasion in the course of each case.

The extension which, in the new system of pacific settlement of disputes, has been given to the advisory procedure of the Court has suggested the idea that it might be desirable to examine whether, even in such cases, it might not be well to adopt the system of adding national judges which at present only obtains in litigious proceedings, and also that of applying to the advisory procedure the provisions of Article 24 of the Statute of the Court relating to withdrawal of judges.

If the parties have not been able to come to an understanding on all or on some of the points necessary to enable the arbitration to be carried out, it lies with the Council to settle the unsettled points, with the exception of the formulation of the questions to be answered, which the arbitrators must seek in the claims set out by the parties or by one of them if the others make default.

In cases where the selection of arbitrators thus falls upon the Council, it has appeared necessary — however much confidence may be felt in the Council's wisdom — to lay down for the selection of the arbitrators certain rules calculated to give the arbitration the necessary moral authority to ensure that it will in practice be respected.

The first rule is that the Council shall, before proceeding to the selection of arbitrators, have regard to the wishes of the parties. It was suggested that this idea should be developed by conferring on the parties the right to indicate their preferences and to challenge a certain number of the arbitrators proposed by the Council.

This proposal was set aside on account of the difficulty of laying

down detailed regulations for the exercise of this double right. But it is understood that the Council will have no motive for failing to accept the candidates proposed to it by the different parties nor for imposing upon them arbitrators whom they might wish to reject, nor, finally, for failing to take into account any other suggestion which the parties might wish to make. It is indeed evident that the Council will always be desirous of acting in the manner best calculated to increase to the utmost degree the confidence which the Committee of Arbitrators should inspire in the parties.

The second rule is based on the same point of view. It lays down the right of the Council to select the arbitrators and their president from among persons who, by their nationality, their personal character and their experience, appear to furnish the highest guarantees of competence and impartiality.

Here, too, experience will show whether it would be well for the Council to draw up general regulations for the composition and functioning of the compulsory arbitration now in question and of that above referred to, and for the conciliation procedure in the Council itself. Such regulations would be made for the Council's own use but would be communicated to the Governments of the signatory States.

Article 4, paragraph 3.

Unanimous decision by the Council. If arbitration is refused by both parties, the case will be referred back to the Council, but this time it will acquire a special character. Refusal of arbitration implies the consent of both parties to a final settlement of the dispute by the Council. It implies recognition of an exceptional jurisdiction of the Council. It denotes that the parties prefer the Council's decision to an arbitral award.

Resuming the examination of the question, the Council has not only the latitude which it customarily possesses. It is armed with full powers to settle the question finally and irrevocably if it is unanimous. Its decision, given unanimously by all the members

other than those representing parties to the dispute, is imposed upon the parties with the same weight and the same force as the arbitration award which it replaces.

Article 4, paragraph 4.

Second case of Compulsory Arbitration. If the Council does not arrive at a unanimous decision, it has to submit the dispute to the judgment of a Committee of Arbitrators, but this time, owing to the parties being deemed to have handed their case over to the Council, the organisation of the arbitration procedure is taken entirely out of their hands. It will be for the Council to settle all the details, the composition, the powers and the procedure of the Committee of Arbitrators. The Council is of course at liberty to hear the parties and even to invite suggestions from them, but it is under no obligation to do so. The only regulation with which it must comply is that, in the choice of arbitrators, it must bear in mind the guarantees of competence and impartiality which, by their nationality, their personal character and their experience, these arbitrators must always furnish.

Article 4, paragraph 6.

Effect of, and Sanction enforcing, Decisions. Failing a friendly arrangement, we are, thanks to the system adopted, in all cases certain of arriving at a final solution of a dispute, whether in the form of a decree of the Permanent Court of International Justice or in the form of an arbitral award or, lastly, in the form of a unanimous decision of the Council.

To this solution the parties are compelled to submit. They must put it into execution or comply with it in good faith.

If they do not do so, they are breaking an engagement entered into towards the other signatories of the Protocol, and this breach involves consequences and sanctions according to the degree of gravity of the case.

If the recalcitrant party confines itself to offering passive resistance to the solution arrived at, it will first be the object of pacific pressure from the Council, which must exercise all its influence to persuade it to respect its engagements. If the Council is unsuccessful, it must propose measures calculated to ensure effect being given to the decision.

On this point the Protocol has been guided solely by the regulation contained at the end of Article 13 of the Covenant. The Council may thus institute against the recalcitrant party collective sanctions of an economic and financial order. It is to be supposed that such sanctions will prove sufficient. It has not appeared possible to go further and to employ force against a State which is not itself resorting to force. The party in favour of which the decision has been given might, however, employ force against the recalcitrant party if authorised to do so by the Council.

But if the State against which the decision has been given takes up arms in resistance thereto, thereby becoming an aggressor against the combined signatories, it deserves even the severe sanctions provided in Article 16 of the Covenant, interpreted in the manner indicated in the present Protocol.

Sphere of Application of Methods of Pacific Procedure. Necessary as the system which we have laid down is for the purpose of ensuring settlement of all disputes, in applying it, the pacific aim which underlies it must be the only guide. It must not be diverted to other purposes and used as an occasion for chicanery and tendentious proceedings by which the cause of peace would lose rather than gain.

A few exceptions to the rule have also had to be made in order to preserve the elasticity of the system. These are cases in which the claimant must be non-suited, the claim being one which has to be rejected *in limine* by the Council, the Permanent Court of International Justice or the arbitrators, as the case may be.

The disputes to which the system will not apply are of three kinds :

Article 4, paragraph 5.

1. The first concerns disputes relating to questions which, at some time prior to the entry into force of the Protocol, have been the subject of a unanimous recommendation by the Council accepted by one of the parties concerned. It is essential to international order and to the prestige of the Council that its unanimous recommendations, which confer a right upon the State accepting them, shall not be called into question again by means of a procedure based upon compulsory arbitration. Failing a friendly arrangement, the only way which lies open for the settlement of disputes to which these recommendations may give rise is recourse to the Council in accordance with the procedure at present laid down in the Covenant.

Article 4, paragraph 7.

2. The same applies to disputes which arise as the result of measures of war taken by one or more signatory States in agreement with the Council or the Assembly of the League of Nations. It would certainly not be admissible that compulsory arbitration should become a weapon in the hands of an enemy to the community to be used against the freedom of action of those who, in the general interest, seek to impose upon that enemy respect for his engagements.

• In order to avoid all difficulty of interpretation, these first two classes of exceptions have been formally stated in the Protocol.

3. There is a third class of disputes to which the new system of pacific settlement can also not be applied. These are disputes which aim at revising treaties and international acts in force, or which seek to jeopardise the existing territorial integrity of signatory States. The proposal was made to include these exceptions in the Protocol, but the two Committees were unanimous in considering that, both from the legal and from the political point of view, the impossibility of applying compulsory arbitration to such cases was so obvious that it was quite superfluous to make

them the subject of a special provision. It was thought sufficient to mention them in this report.

6. ROLE OF THE ASSEMBLY UNDER THE SYSTEM SET UP BY THE PROTOCOL.

Article 6.

The new procedure should be adapted to the old one, which gave the Assembly the same powers as the Council when a dispute is brought before it, either by the Council itself or at the request of one of the parties.

The question has arisen whether the system of maintaining in the new procedure this equality of powers between the two organs of the League of Nations is a practical one. Some were of opinion that it would be better to exclude intervention by the Assembly. Finally, however, the opposite opinion prevailed ; an appeal to the Assembly may, indeed, have an important influence from the point of view of public opinion. Without going so far as to assign to the Assembly the same rôle as to the Council, it has been decided to adopt a mixed system by which the Assembly is, in principle, substituted for the Council in order that, when a dispute is referred to it in conformity with paragraph 9 of Article 15 of the Covenant, it may undertake, in the place of the Council, the various duties provided for in Article 4 of the present Protocol with the exception of purely executive acts which will always devolve upon the Council. For example, the organisation and management of compulsory arbitration, or the transmission of a question to the Permanent Court of International Justice, must always be entrusted to the Council, because, in practice, the latter is the only body qualified for such purposes.

The possible intervention of the Assembly does not affect in any way the final result of the new procedure. If the Assembly does not succeed in conciliating the parties and if one of them so requests, compulsory arbitration will be arranged by the Council in accordance with the rules laid down beforehand.

If none of the parties asks for arbitration, the matter is referred back to the Assembly, and if the solution recommended by the Assembly obtains the majority required under paragraph 10 of Article 15 of the Covenant, it has the same value as a unanimous decision of the Council.

Lastly, if the necessary majority is not obtained, the dispute is submitted to a compulsory arbitration organised by the Council.

In any event, as in the case where the Council alone intervenes, a definitive and binding solution of the dispute is reached.

7 DOMESTIC JURISDICTION OF STATES.

Article 5.

The present Protocol in no way derogates from the rule of Article 15, paragraph 8, of the Covenant, which protects national sovereignty.

In order that there might be no doubt on this point, it appeared advisable to say so expressly.

Before the Council, whatever be the stage in the procedure set up by the Protocol at which the Council intervenes, the provision referred to applies without any modification.

The rule is applied also to both cases of compulsory arbitration. If one of the States parties to the dispute claims that the dispute or part thereof arises out of a matter which by international law is solely within its jurisdiction, the arbitrators must on this point take the advice of the Permanent Court of International Justice through the medium of the Council, for the question thus put in issue is a legal question upon which a judicial opinion should be obtained.

The Court will thus have to give a decision as to whether the question in dispute is governed by international law or whether it falls within the domestic jurisdiction of the State concerned. Its functions will be limited to this and the question will in any event be referred back to the arbitrators. But, unlike other opinions requested of the Court in the course of a compulsory

arbitration — opinions which for the arbitrators are purely advisory— in the present case the opinion of the Court is compulsory in the sense that, if the Court has recognised that the question in dispute falls entirely within the domestic jurisdiction of the State concerned, the arbitrators will simply have to register this conclusion in their award. It is only if the Court holds that the question in dispute is governed by international law that the arbitrators will again take the case under consideration in order to give a decision upon its substance.

The compulsory character of the Court's opinion, in this case, increases the importance of the double question referred to above, in connection with Article 4, relating to the calling-in of national judges, and the application of Article 24 of the Statute of the Court in matters of advisory procedure.

While the principle of Article 15, paragraph 8, of the Covenant is maintained, it has been necessary, in order to make its application more flexible, to call in aid the rule contained in Article 11 of the Covenant, which makes it the duty of the League of Nations, in the event of war or a threat of war, to " take any action that may be deemed wise and effective to safeguard the peace of nations ", and obliges the Secretary-General to summon forthwith a meeting of the Council on the request of any Member of the League. It is in this way understood that when it has been recognised that a dispute arises out of a matter which is solely within the domestic jurisdiction of one of the parties, that party or its opponent will be fully entitled to call upon the Council or the Assembly to act.

There is nothing new on this simple reference to Article 11. It leaves unimpaired the right of the Council to take such action as it may deem wise and effectual to safeguard the peace of nations. It does not confer new powers or functions on either the Council or the Assembly. Both these organs of the League simply retain the powers now conferred upon them by the Covenant.

In order to dispel any doubt which may arise from the parallel which has been drawn between Article 15, paragraph 8, and Article 11 of the Covenant, a very clear explanation was given in the course of the discussion in the First Committee.

Where a dispute is submitted to the Council under Article 15 and it is claimed by one party that the dispute arises out of a matter left exclusively within its domestic jurisdiction by international law, paragraph 8 prevents the Council from making any recommendations upon the subject if it holds that the contention raised by the party is correct and that the dispute does in fact arise out of a matter exclusively within that State's jurisdiction.

The effect of this paragraph is that the Council cannot make any recommendation in the technical sense in which that term is used in Article 15, that is to say, it cannot make, even by unanimous report, recommendations which become binding on the parties in virtue of paragraph 6.

Unanimity for the purpose of Article 15 implies a report concurred in by all the members of the Council other than the parties to the dispute. Only a report so concurred in is one which the parties to the dispute are bound to observe, in the sense that, if they resort to war with any party which complies with the recommendations, it will constitute a breach of Article 16 of the Covenant and will set in play the sanctions which are there referred to.

On the other hand, Article 11 is of different scope: first, it operates only in time of war or threat of war; secondly, it confers no right on the Council or on the Assembly to impose any solution of a dispute without the consent of the parties. Action taken by the Council or the Assembly under this article cannot become binding on the parties to the dispute in the sense in which recommendations under Article 15 become binding, unless they have themselves concurred in it.

One last point should be made clear. The reference which is made to Article 11 of the Covenant holds good only in the eventuality contemplated in Article 15, paragraph 8, of the Covenant. It is obvious that when a unanimous decision of the Council or an arbitral award has been given upon the substance of a dispute, that dispute is finally settled and cannot again be brought either directly or indirectly under discussion. Article 11 of the Covenant does not deal with situations which are covered by rules of law capable of application by a judge. It applies only to cases which

are not yet regulated by international law. In fact, it demonstrates the existence of loop-holes in the law.

The reference to Article 11 in two of the articles of the Protocol (Articles 5 and 10) has advantages beyond those to which attention is drawn in the commentary on the text of those articles. It will be an incitement to science to clear the ground for the work which the League of Nations will one day have to undertake with a view to bringing about, through the development of the rules of international law, a closer reconciliation between the individual interests of its Members and the universal interests which it is designed to serve.

8. DETERMINATION OF THE AGGRESSOR.

Article 10.

In order that the procedure of pacific settlement may be accompanied by the necessary sanctions, it has been necessary to provide for determining exactly the State guilty of aggression to which sanctions are to be applied.

This question is a very complex one, and in the earlier work of the League the military experts and jurists who had had to deal with it found it extremely difficult.

There are two aspects to the problem : first, aggression has to be defined, and, secondly, its existence has to be ascertained.

The definition of aggression is a relatively easy matter, for it is sufficient to say that any State is the aggressor which resorts in any shape or form to force in violation of the engagements contracted by it either under the Covenant (if, for instance, being a Member of the League of Nations, it has not respected the territorial integrity or political independence of another Member of the League) or under the present Protocol (if, for instance, being a signatory of the Protocol, it has refused to conform to an arbitral award or to a unanimous decision of the Council). This is the effect of Article 10, which also adds that the violation of the

rules laid down for a demilitarised zone is to be regarded as equivalent to resort to war. The text refers to resort to war, but it was understood during the discussion that, while mention was made of the most serious and striking instance, it was in accordance with the spirit of the Protocol that acts of violence and force, which possibly may not constitute an actual state of war, should nevertheless be taken into consideration by the Council.

On the contrary, to ascertain the existence of aggression is a very difficult matter, for although the first of two elements which together constitute aggression, namely, the violation of an engagement, is easy to verify, the second, namely, resort to force, is not an easy matter to ascertain. When one country attacks another, the latter necessarily defends itself, and when hostilities are in progress on both sides, the question arises which party began them.

This is a question of fact concerning which opinions may differ.

The first idea which occurs to the mind is to make it the duty of the Council to determine who is the aggressor. But, immediately, the question arises whether the Council must decide this question unanimously, or whether a majority vote would suffice. There are serious disadvantages in both solutions and they are therefore unacceptable.

To insist upon a unanimous decision of the Council exposes the State attacked to the loss of those definite guarantees to which it is entitled, if one single Member of the Council — be it in good faith or otherwise — insists on adhering to an interpretation of the facts different from that of all his colleagues. It is impossible to admit that the very existence of a nation should be subject to such a hazard. It is not sufficient to point out that the Council would be bound to declare the existence of aggression in an obvious case and that it could not fail to carry out its duty. The duty would be a duty without a sanction and if by any chance the Council were not to do its duty, the State attacked would be deprived of all guarantees.

But it would also be dangerous to rely on a majority vote of the Council. In that case, the danger would be incurred by the State

called upon to furnish assistance and to support the heavy burden of common action, if it still entertained some doubt as to the guilt of the country against which it had to take action. Such a country would run the risk of having to conform to a decision with which it did not agree.

The only escape from this dilemma appeared to lie in some automatic procedure which would not necessarily be based on a decision of the Council. After examining the difficulty and discussing it in all its aspects, the First Committee believes that it has found the solution in the idea of a presumption which shall hold good until the contrary has been established by a unanimous decision of the Council.

The Committee is of opinion that this presumption arises in three cases, namely, when a resort to war is accompanied :

By a refusal to accept the procedure of pacific settlement or to submit to the decision resulting therefrom ;

By violation of provisional measures enjoined by the Council as contemplated by Article 7 of the Protocol ;

Or by disregard of a decision recognising that the dispute arises out of a matter which lies exclusively within the domestic jurisdiction of the other party and by failure or by refusal to submit the question first to the Council or the Assembly.

In these cases, even if there is not absolute certainty, there exists at any rate a very strong presumption which should suffice for the application of sanctions unless proof to the contrary has been furnished by a unanimous decision of the Council.

It will be noticed that there is a characteristic difference between the first two cases and the third.

In the first two cases the presumption exists when, in addition to a state of war, the special condition referred to is also fulfilled.

In the third case, however, the presumption is dependent upon three conditions : disobedience to a decision, wilful failure to take advantage of the remedy provided in Article 11 of the Covenant, and the existence of a state of war.

This difference is due to the necessity of taking into account the provisions of Article 5 analysed above, which, by its reference to Article 11 of the Covenant, renders the application of paragraph 8 of Article 15 of the Covenant more flexible. After very careful consideration it appeared that it would be unreasonable and unjust to regard as *ipso facto* an aggressor a State which, being prevented through the operation of paragraph 8 of Article 15 from urging its claims by pacific methods and being thus left to its own resources, is in despair driven to war.

It was considered to be more in harmony with the requirements of justice and peace to give such a State which has been non-suited on the preliminary question of the domestic jurisdiction of its adversary, a last chance of arriving at an amicable agreement by offering it the final method of conciliation prescribed in Article 11 of the Covenant. It is only if, after rejecting this method, it has recourse to war that it will be presumed to be an aggressor.

This mitigation of the rigid character of paragraph 8 of Article 15 has been accepted, not only because it is just, but also because it opens no breach in the barrier set up by the Protocol against aggressive war: it in no way infringes the principle — which remains unshaken — that a war undertaken against a State whose exclusive jurisdiction has been formally recognised is an international crime to be avenged collectively by the signatories of the Protocol.

When a State whose demands have been met with the plea of the domestic jurisdiction of its adversary has employed the resource provided for in Article 11 of the Covenant, the presumption of aggression falls to the ground. The aggression itself remains. It will be for the Council to decide who is responsible for the aggression in accordance with the procedure which will be described below.

Apart from the above cases, there exists no presumption which can make it possible automatically to determine who is the aggressor. But this fact must be determined, and, if no other solution can be found, the decision must be left to the Council. The

same principle applies where one of the parties is a State which is not a signatory of the Protocol and not a Member of the League.

If the Council is unanimous, no difficulty arises. If, however, the Council is not unanimous, the difficulty is to be overcome by directing that the Council must enjoin upon the belligerents an armistice the terms of which it will fix if need be by a two-thirds majority and the party which rejects the armistice or violates it is to be held to be an aggressor.

The system is therefore complete and is as automatic as it can be made.

Where a presumption has arisen and is not rejected by a unanimous decision of the Council, the facts themselves decide who is an aggressor; no further decision by the Council is needed and the question of unanimity or majority does not present itself; the facts once established, the Council is bound to act accordingly.

Where there is no presumption, the Council has to declare the fact of aggression; a decision is necessary and must be taken unanimously. If unanimity is not obtained, the Council is bound to enjoin an armistice, and for this purpose no decision properly speaking has to be taken; there exists an obligation which the Council must fulfil; it is only the fixing of the terms of the armistice which necessitates a decision, and for this purpose a two-thirds majority suffices.

It was proposed to declare that, in cases of extreme urgency, the Council might determine the aggressor, or fix the conditions of an armistice, without waiting for the arrival of the representative which a party not represented among its members has been invited to send under the terms of paragraph 5 of Article 4 of the Covenant.

It seemed preferable, however, not to lay down any rule on this matter at present but to ask the special Committee which the Council is to appoint for the drafting of amendments to the Covenant on the lines of the Protocol, to consider whether such a rule is really necessary.

It may in fact be thought that the Council already possesses all the necessary powers in this matter and that, in cases of extreme urgency, if the State invited to send a representative is too far distant from the seat of the Council, that body may decide that the representative shall be chosen from persons near at hand and shall attend the meeting within a prescribed period, on the expiry of which the matter may be considered in his absence.

The fact of aggression having been established by presumption or by unanimous decision of the Council or by refusal to accept or violation of the armistice, it will only remain to apply the sanctions and bring into play the obligations of the guarantor States. The Council will merely call upon them to fulfil their duty ; here, again, there is no decision to be taken but an obligation to be fulfilled, and the question of majority or unanimous vote does not arise.

It is not, indeed, a matter of voting at all.

In order to leave no room for doubt, it has been formally laid down that a State which, at the invitation of the Council, engages in acts of violence against an aggressor is in the legal position of a belligerent and may consequently exercise the rights inherent in that character.

It was pointed out in the course of the discussion that such a State does not possess entire freedom of action. The force employed by it must be proportionate to the object in view and must be exercised within the limits and under the conditions recommended by the Council.

Article 18.

Likewise, in order to avoid any misunderstanding, it has been stipulated, in a special Article, that unanimity or the necessary majority in the Council is always calculated according to the rule referred to on several occasions in Article 15 of the Covenant and repeated in Article 16 of the Covenant for the case of expulsion of a Member from the League, viz., without counting the votes of the representatives of the parties to the dispute.

9. DISPUTES BETWEEN STATES SIGNATORY AND STATES NON-SIGNATORY OF THE PROTOCOL.

Article 16.

As regards the settlement of disputes arising between a State signatory and one or more States non-signatory and non-Members of the League of Nations, the new system has had to be adapted to the former system.

In order that States signatory might enjoy the essential advantages offered by the Protocol, which forbids all wars of aggression, it has been necessary to bring the rule laid down in Article 17 of the Covenant into harmony with the provisions of the Protocol. It has therefore been decided that States non-signatory and non-Members of the League of Nations in conflict with a State signatory shall be invited to conform to the new procedure of pacific settlement and that, if they refuse to do so and resort to war against a State signatory, they shall be amenable to the sanctions provided by Article 16 of the Covenant as defined by the Protocol.

There is no change in the arrangements laid down in the Covenant for the settlement of disputes arising between States Members of the League of Nations of which one is a signatory of the Protocol and the other is not. The legal nexus established by the Covenant between two such parties does not allow the signatory States to apply as of right the new procedure of pacific settlement to non-signatory but Member States. All that signatory States are entitled to expect as regards such other States is that the Council should provide the latter with an opportunity to follow this procedure and it is to be hoped that they will do so. But such States can only be offered an opportunity to follow the new procedure; they cannot be obliged to follow it. If they refuse, preferring to adhere to the procedure laid down in the Covenant, no sanctions could possibly be applied to them.

The above indicated solution of the case of States non-signatory but Members of the League of Nations appears to be so obvious as to require no special mention in the Protocol. A proposal to

make a special mention of the matter was made, but after explanations had been given, the authors withdrew their suggestion, declaring that they would be satisfied with the above reference to the subject.

At first sight the difference in the way it is proposed to treat non-signatories non-Members of the League of Nations and non-signatories Members of the League may cause some surprise, for it would seem that the signatory States impose greater obligations on the first category than on the second. This, however, is only an appearance. In reality, the signatory States impose no obligations on either category. They cannot do so because the present Protocol is *res inter alios acta* for all non-signatory States, whether they are Members of the League of Nations or not. The signatories merely undertake obligations as between themselves as to the manner in which they will behave if one of them becomes involved in a conflict with a third State. But whereas, in possible conflicts with a State non-signatory and non-Member of the League, they are entirely free to take such action as they choose, in conflicts which may arise between them and States non-signatory but Members, like themselves, of the League of Nations, their freedom of action is to some extent circumscribed because both parties are bound by legal obligations arising under the Covenant.

2. Work of the Third Committee (*Rapporteur*: M. BENES)

SECURITY AND REDUCTION OF ARMAMENTS (*Articles 7 to 9, 11 to 15, 17 and 21 of the Protocol*)

I. INTRODUCTION.

The special work of the Third Committee was to deal with the problem of security (sanctions) and the reduction of armaments.

The work required, above all, important political negotiations. While the question of arbitration only required one political decision of principle, namely, the acceptance of compulsory arbitration, and the remainder was principally a matter of drafting—without question an extremely difficult task—of a scheme for the application of such arbitration, the questions of security and disarmament necessitated long and laborious political negotiations; for they involved fundamental interests, questions of vital importance to the States, engagements so far-reaching as radically to change the general situation of the various countries.

Although in the work of the First Committee the Assembly had distinctly indicated in its resolution of September 6th that there was a likelihood—indeed, a necessity—of amending the Covenant, the work of the Third Committee as regards questions of security and reduction of armaments had, in conformity with the debates of the Assembly, to remain within the framework of the Covenant. Above all, it was a question of developing and rendering more precise what is already laid down in the Covenant. All our discussions, all our labours, were guided by these principles, and a delicate task was thus imposed upon us. But the spirit of conciliation which pervaded all the discussions has permitted us to resolve the two problems which were placed before us. This is, indeed, an important result, and if the solution of the problem of arbitration which has been so happily arrived at by the First Committee be also taken into consideration, we are in the presence of a system the adoption of which may entirely modify our present political life.

This is the real import of the articles of the Protocol concerning the questions of security and reduction of armaments.

2. THREAT OF AGGRESSION : PREVENTIVE MEASURES.

Article 7.

The pacific settlement of disputes being provided for in the present Protocol, the signatory States undertake, should any

conflict arise between them, not to resort to preparations for the settlement of such dispute by war and, in general, to abstain from any act calculated to aggravate or extend the said dispute. This provision applies both to the period preceding the submission of the dispute to arbitration or conciliation and to the period in which the case is pending.

This provision is not unaccompanied by sanctions. Any appeal against the violation of the aforesaid undertaking may, in conformity with Article 11 of the Covenant, be brought before the Council. One might say that, in addition to such primary dispute as is or might be submitted to the Council or to some other competent organ, a second dispute arises, caused by the violation of the undertakings provided for in the first paragraph.

The Council, unless it be of opinion that the appeal is not worthy of consideration, will proceed with the necessary enquiries and investigations. Should it be established that an offence has been committed against the provisions of the first paragraph, it will be the duty of the Council, in the light of the results of such enquiries and investigations, to call upon any State guilty of the offence to put an end thereto. Any such State failing to comply will be declared by the Council to be guilty of violation of the Covenant (Article 11) or the Protocol.

The Council must, further, take the necessary measures to put an end, as soon as possible, to a situation calculated to threaten the peace of the world. The text does not define the nature of these preventive measures. Its elasticity permits the Council to take such measures as may be appropriate in each concrete case, as, for example, the evacuation of territories.

Any decisions which may be taken by the Council in virtue of this Article may be taken by a two-thirds majority, except in the case of decisions dealing with questions of procedure which still come under the general rule of Article 5, paragraph 2, of the Covenant. The following decisions, therefore, can be taken by a two-thirds majority :

The decision as to whether there has or has been an offence against the first paragraph ;

The decision calling upon the guilty State to remedy the offence ;

The decision as to whether there has or has not been refusal to remedy the offence ;

Lastly, the decision as to the measures calculated to put an end, as soon as possible, to a situation calculated to threaten the peace of the world.

The original text of Article 7 provided that, in the case of enquiries and investigations, the Council should avail itself of the organisation to be set up by the Conference for the Reduction of Armaments in order to ensure respect for the decisions of that Conference. There is no longer any mention of this organisation, but this omission does not prejudice any decisions which the Conference may be called upon to take regarding the matter. It will be entirely free to set up an organisation, if it judges this necessary, and the Council's right to make use of this for the enquiries and investigations contemplated will, *a fortiore*, remain intact.

Article 8.

Article 8 must be considered in relation to Article 2. Article 2 establishes the obligation not to resort to war, while Article 8, giving effect to Article 10 of the Covenant, goes further. The signatories undertake to abstain from any act which might constitute a threat of aggression against any other State. Thus, every act which comes within the scope of this idea of a threat of war — and its scope is sufficiently elastic — constitutes a breach of the Protocol, and therefore a dispute with which the Council is competent to deal.

If, for example, one State alleges that another State is engaged in preparations which are nothing less than a particular form of threat of war (such as any kind of secret mobilisation, concentration of troops, formation of armed bodies with the connivance of the Government, etc.), the Council, having established that there is a case for consideration, will apply the procedure which may

be defined as the procedure of preventive measures ; it will arrange for suitable enquiries and investigations, and, in the event of any breach of the provisions of paragraph 1 being established, will take the steps described in Article 7, paragraph 4.

3. SECURITY : SANCTIONS.

Article 11, paragraphs 1 and 2, of the Protocol in its relation to Article 10 and 16 of the Covenant.

According to Article 10 of the Covenant, Members of the League undertake to preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

According to Article 16, should any Member of the League resort to war in disregard of its engagements under Articles 12, 13 or 15, all other Members of the League undertake immediately to apply economic sanctions ; furthermore, it shall be the duty of the Council to recommend to the several Governments concerned what effective military, naval or air forces the Members of the League shall severally contribute to the armed forces to be used to protect the engagements of the League.

At the time when they were drafted at the Peace Conference in Paris in 1919, these articles gave rise to keen controversy as to the scope of the engagements entered into in these provisions, that is to say, as to the nature and of the obligations referred to in Article 10, the exact moment at which such obligations arose, and the legal consequences of the Council recommendations referred to in Article 16, paragraph 2. This controversy continued, as is well known, in the debates here in Geneva, where the question has been discussed in previous years.

Article 11 is intended to settle this controversy. The signatories of the present Protocol accept the obligation to apply against the aggressor the various sanctions laid down in the Covenant, as interpreted in Article 11 of the Protocol, when an act of aggres-

sion has been established and the Council has called upon the signatory States immediately to apply such sanctions (Article 10, last paragraph). Should they fail so to do, they will not be fulfilling their obligations.

The nature and extent of this obligation is clearly defined in paragraph 2 of Article 11. According to this paragraph, the reply to the question whether a signatory to the Protocol has or has not fulfilled its obligation depends on whether it has loyally and effectively co-operated in resisting the act of aggression to an extent consistent with its geographical position and its particular situation as regards armaments.

The State remains in control of its forces, and itself, and not the Council, directs them, but paragraph 2 of Article 11 gives us positive material upon which to form a judgment as to whether or not the obligation has been carried out in any concrete case. This criterion is supplied by the term : *loyally and effectively*.

In answering the question whether a State has or has not fulfilled its obligations in regard to sanctions, a certain elasticity in the obligations laid down in Article 11 allows of the possibility of *taking into account, from every point of view, the position of each State which is a signatory to the present Protocol*. The signatory States are not all in possession of equal facilities for acting when the time comes to apply the sanctions. This depends upon the geographical position and economic and social condition of the State, the nature of its population, internal institutions, etc.

Indeed, during the discussion as to the system of sanctions, certain delegations declared that their countries were in a special situation by reason of their geographical position or the state of their armaments. These countries desired to co-operate to the fullest extent of their resources in resistance to every act of aggression, but they drew attention to their special conditions. In order to take account of this situation, an addition has been made to paragraph 2 of Article 11 pointing out this state of affairs and laying stress on the particular situation of the countries in question. Moreover, Article 13 of the Protocol allows such countries to inform the Council of these matters beforehand.

I would further add that the obligations I refer to are imperfect obligations in the sense that no sanctions are provided for against any party which shall have failed loyally and effectively to co-operate in protecting the Covenant and resisting every act of aggression. It should, however, be emphasised that such a State would have failed in the fulfilment of its duties and would be guilty of a violation of engagements entered into.

In view of the foregoing, the gist of Article 11, paragraphs 1 and 2, might be expressed as follows : Each State is the judge of the manner in which it shall carry out its obligations but not of the existence of those obligations, that is to say, each State remains the judge of what it will do but no longer remains the judge of what it should do.

Now that the present Protocol has defined more precisely the origin, nature and extent of the obligations arising out of the Covenant, the *functions of the Council, as provided in Articles 10 and 16, have become clearer and more definite.*

Directly the Council has called upon the signatories to the Protocol to apply without delay the sanctions provided in Article 11, it becomes a regulating, or rather an advisory, body, but not an executive body. The nature of the acts of aggression may vary considerably ; the means for their suppression will also vary. It would frequently be unnecessary to make use of all the means which, according to paragraphs 1 and 2 of Article 11, are, so to speak, available for resisting an act of aggression. It might even be dangerous if, from fear of failing in their duties, States made superfluous efforts. It will devolve upon the Council, which, under Article 13 can be put in possession of the necessary data, to give *its opinion*, should need occur, as to the best means of executing the obligations which arise directly it enjoins the application of sanctions, especially as to the sequence in which the sanctions must be applied.

The practical application of the sanctions would, however, always devolve upon the Governments ; the real co-operation would ensue upon their getting into touch, through diplomatic channels — perhaps by conferences — and by direct relations :

between different General Staffs, as in the last war. The Council would, of course, be aware of all these negotiations, would be consulted and make recommendations.

The difference between the former state of affairs and the new will therefore be as follows : According to the system laid down by the Covenant :

1. The dispute arises.
2. In cases where neither the arbitral procedure nor the judicial settlement provided for in Article 13 of the Covenant is applied, the Council meets and discusses the dispute, attempts to effect conciliation, mediation, etc.
3. If it be unsuccessful and war break out, the Council, if unanimous, has to express an opinion as to which party is guilty. The Members of the League then decide for themselves whether this opinion is justified and whether their obligations to apply economic sanctions become operative.
4. The Council then has, *by a unanimous decision, to recommend* military sanctions.
5. If unanimity cannot be obtained, the Council ceasing to take action, each party is practically free to act as it chooses.

According to the new system defined in the Protocol, the situation is as follows :

1. The dispute arises.
2. The system of peaceful settlement provided for by the Protocol comes into play.
3. The Council intervenes, and if, after arbitration has been refused, war is resorted to, if the provisional preventive measures are not observed, etc., the Council decides which party is the aggressor and calls upon the signatory States to apply the sanctions.
4. This decision implies that such sanctions as the case requires — economic, financial, military, naval and air — shall be applied forthwith, and without further recommendations or decisions.

We have therefore the following new elements :

(a) The obligation to apply the necessary sanctions of every kind as a direct result of the decision of the Council.

(b) The elimination of the case in which all parties would be practically free to abstain from any action. The introduction of a system of arbitration and of provisional measures which permits of the determination in every case of the aggressor.

(c) No decision is taken as to the strength of the military, naval and air forces, and no details are given as to the measures which are to be adopted in a particular case. None the less, objective criteria are supplied which define the obligation of each signatory ; it is bound, in resistance to an act of aggression, to collaborate *loyally and effectively* in applying the sanctions in accordance with its geographical situation and its particular situation as regards armaments.

That is why I said that *the great omission in the Covenant has been made good*.

It is true that no burden has been imposed on States beyond the sanctions already provided for in the Covenant. But, at present a State seeking to elude the obligations of the Covenant can reckon on two means of escape.

(1) The Council's recommendations need not be followed.

(2) The Council may fail to obtain unanimity, making impossible any declaration of aggression, so that no obligation to apply military sanctions will be imposed and everyone will remain free to act as he chooses.

We have abandoned the above system and both these loopholes are now closed.

Article II, paragraphs 3 and 4.

Paragraph 3 of Article II has been drafted with a view to giving greater precision to certain provisions of Article II, paragraph 3,

of the Covenant. Article 16, paragraph 3, refers to mutual support in the application of financial and economic measures. Article 16, paragraph 3, of the present Protocol establishes real economic and financial co-operation between a State which has been attacked and the various States which come to its assistance.

As, under Article 10 of the Protocol, it may happen that both States involved in a dispute are declared to be aggressors, the question arose as to what would be the best method of settling this problem. There were three alternatives: to apply the principle contained in paragraph 1, which is practically equivalent to making a sort of police war on both parties—or to leave the matter to pursue its course, or, finally, to compel States which disturb the peace of the world to desist from acts of war by the employment of means less severe than those indicated in paragraph 1. It is the last method which has been chosen. Only economic measures will be taken against such States, and naturally they will not be entitled to receive the assistance referred to in Article 11, paragraph 3.

Article 12.

Article 16, paragraph 1, of the Covenant provides for the immediate severance of all trade or financial relations with the aggressor State, and paragraph 3 of the same Article provides, *inter alia*, for economic and financial co-operation between the State attacked and the various States coming to its assistance.

As has already been pointed out, these engagements have been confirmed and made more definite in Article 11 of the Protocol.

But the severance of relations and the co-operation referred to necessarily involve measures so complex that, when the moment arises, doubts may well occur as to what measures are necessary and appropriate to give effect to the obligations assumed under the above provisions. These problems require full consideration in order that States may know beforehand what their attitude should be.

Article 12 defines the conditions of such investigation.

It is not expressly stated that the problem will be examined by the Council in collaboration with the various Governments, but the Council will naturally, if it deems it necessary, invite the Governments to furnish such information as it may require for the purpose of carrying out the task entrusted to it under Article 12.

Article 13, paragraph 1.

The above explanation of Article 11, paragraphs 1 and 2, contains many references to Article 13.

As I have already pointed out, in case sanctions have to be applied, it is highly important that there should exist some organ competent to express an opinion as to the best way in which their obligations could be carried out by the signatories. As you are aware, this organ, according to the Covenant, is the Council. In order that the Council may effectively fulfil this duty, Article 13 empowers it to receive undertakings from States, determining *in advance* the military, naval and air forces which they would be able to bring into action immediately in order to ensure the fulfilment of the obligations in regard to sanctions arising out of the Covenant and the present Protocol.

It is also necessary to emphasise the fact that the means which the States signatories to the present Protocol have at their disposal for the fulfilment of the obligations arising out of Article 11 vary considerably owing to the differences in the geographical, economic, financial, political and social condition of different States. Information as to the means at the disposal of each State is therefore indispensable in order that the Council may in full understanding give its opinion as to the best method by which such obligations may best be carried out.

Finally, as regards the question of the reduction of armaments, which is the final goal to which our efforts are tending, the information thus furnished to the Council may be of very great importance, as every State, knowing what forces will be available for its assistance in case it is attacked, will be able to judge to what

extent it may reduce its armaments without compromising its existence as a State, and every State will thus be able to provide the International Conference for the Reduction of Armaments with very valuable data. I should add, moreover, that Article 13, paragraph 1, does not render it compulsory for States to furnish this information. It is desirable that States should furnish the Council with this information, but they are at liberty not to do so.

Article 13, paragraphs 2 and 3.

The provisions of Article 13, paragraphs 2 and 3, refer to the special agreements which were discussed at such length last year. In view of the fact that, according to paragraph 2, such agreements can only come into force when the Council has invited the signatory States to apply the sanctions, the nature of these agreements may be defined as follows :

Special agreements must be regarded as the means for the rapid application of sanctions of every kind in a particular case of aggression. They are additional guarantees which give weaker States an absolute assurance that the system of sanctions will never fail. They guarantee that there will always be States prepared immediately to carry out the obligations provided for in Article 11 of the Protocol.

In accordance with Article 18 of the Covenant, it is expressly stated that these agreements will be registered and published by the Secretariat, and it has also been decided that they will remain open for signature to any State Member of the League of Nations which may desire to accede to them.

4. ENDING OF SANCTIONS : PUNISHMENT OF THE AGGRESSOR.

Article 14.

Article 14 is in perfect keeping with the last paragraphs of Articles 10 and 11. In the paragraphs in question, the coming

into operation of the sanctions depends upon an injunction by the Council ; it therefore also devolves upon the Council to declare that the object for which the sanctions were applied has been attained. Just as the application of the sanctions is a matter for the States, so it rests with them to liquidate the operations undertaken with a view to resisting the act of aggression.

Article 15.

Paragraph 1 is similar to Article 10 of the Draft Treaty of Mutual Assistance drawn up last year.

Paragraph 2 is designed to prevent the sanctions provided for in Article 11 from undergoing any change in character during the process of execution and developing into a war of annexation.

In view of the observations of various delegations regarding the punishment of the aggressor, it should be added that it would be incorrect to interpret this article as meaning that the only penalties to be apprehended by the aggressor as the result of his act shall be the burdens referred to in paragraph 1. If necessary, securities against fresh aggression, or pledges guaranteeing the fulfilment of the obligations imposed in accordance with paragraph 1, might be required. Only annexation of territory and measures involving the loss of political independence are declared inadmissible.

“ Territory ” is to be taken to mean the whole territory of a State, no distinction being made between the mother-country and the colonies.

5. REDUCTION OF ARMAMENTS.

Articles 17 and 21.

Although it has not been possible to solve the problem of the reduction of armaments in the clauses of the document submitted to the Assembly for approval, our work paves the way to it and makes it possible.

The reduction of armaments will result, in the first place, from the general security created by a diminution of the dangers of war arising from the compulsory pacific settlement of all disputes.

It will also ensue from the certainty which any State attacked will have of obtaining the economic and financial support of all the signatory States, and such support would be especially important should the aggressor be a great Power, capable of carrying on a long war.

Nevertheless, for States which, owing to their geographical position, are especially liable to attack, and for States whose most important centres are adjacent to their frontiers, the dangers of a sudden attack are so great that it will not be possible for them to base any plan for the reduction of their armaments simply upon the political and economic factors referred to above, no matter what the importance of such factors may be.

It has also been repeatedly declared that many States would require to know what military support they could count on, before the convening of the Conference, if they are to submit to the Conference proposals for large reductions of armaments ; this might necessitate negotiations between the Governments and with the Council before the meeting of the Conference for the reduction of armaments provided for in Article 17. The undertakings referred to in Article 13 of the Protocol should be interpreted in the light of the above.

In drawing up the general programme of the Conference, it will also be necessary, as stated in paragraph 2 of Article 17, for the Council, apart from other criteria, " to take into account the undertakings mentioned ".

In view of the close interdependence of the three great problems involved, namely, the pacific settlement of disputes, sanctions against those who disturb the peace of the world, and reduction of armaments, the Protocol provides for the convening by the Council of a general Conference for the Reduction of Armaments and for the preparation of the work of such a Conference. Furthermore, the application of the clauses concerning arbitration and sanctions will be conditional on the adoption by the said Confer-

ence of a plan for the reduction and limitation of armaments.

Moreover, in order to preserve the connection between the three big problems referred to above, it is provided that the whole Protocol will lapse in the event of the non-execution of the scheme adopted by the Conference. It devolves upon the Council to declare this under conditions to be determined by the Conference itself.

The last paragraph of Article 21 provides for the case of the partial lapsing of the Protocol after it has been put into force. Should the plan adopted by the Conference be regarded as having been put into effect, any State which fails to execute it, so far as it is concerned, will not benefit by the provisions of the Protocol.

6. THE COVENANT AND THE PROTOCOL.

Article 19.

The present Protocol emphasises and defines certain obligations arising out of the Covenant. Those of which the present Protocol makes no mention are not affected in any manner. They still exist. Examples which might be quoted are those laid down in Article 16, paragraph 3, of the Covenant, namely, the obligation of the States to give one another mutual support in order to minimise the loss and inconvenience resulting from the application of the economic and financial sanctions or the obligation of the States to take the necessary steps to afford passage through their territory to forces which are co-operating to protect the covenants of the League.

Moreover, as the Swiss Delegation suggests, attention should be directed to the fact that the present Protocol does not in any way affect the special position of Switzerland arising out of the Declaration of the Council at London on February 13th, 1920. As the special position of Switzerland is in accordance with the Covenant, it will also be in accordance with the Protocol.

III. Conclusion.

No further explanations need be added to these comments on the articles. The main principles of the Protocol are clear, as are the detailed provisions.

Our purpose was to make war impossible, to kill it, to annihilate it. To do this, we had to create a system for the pacific settlement of *all disputes* which might arise. In other words, it meant the creation of a system of arbitration from which no international dispute, whether legal or political, could escape. The plan drawn up leaves no loophole ; it prohibits wars of every description and lays down that all disputes shall be settled by pacific means.

But this absolute character which has been given to the system of arbitration should also belong to the whole of the scheme, to the treatment of every question of principle. If there were one single gap in the system, if the smallest opening were left for any measure of force, the whole system would collapse.

Arbitration, therefore, is provided for every kind of dispute, and aggression is defined in such a way as to give no cause for hesitation when the Council has to take a decision.

These reasons led us to fill in the gaps in the Covenant and to define the sanctions in such a way that no possible means could be found of evading them, and that there should be a sound and definite basis for the feeling of security.

Finally, the Conference for the Reduction of Armaments is indissolubly bound up with this whole system : *there can be no arbitration or security without disarmament, nor can there be disarmament without arbitration and security.*

The peace of the world is at stake.

The Fifth Assembly has undertaken a work of world-wide political importance which, if it succeeds, is destined profoundly to modify present political conditions. This year great progress in this direction has been made in our work. If we succeed, the

League of Nations will have rendered an inestimable service to the whole modern world. Such success depends partly upon the Assembly itself and partly upon individual Governments. We submit to the Assembly the fruit of our labours : a work charged with the highest hopes. We beg the Assembly to examine our proposals with care, and to recommend them to the various Governments for acceptance.

In this spirit and with such hopes do we request the Assembly to vote the draft resolutions 1 and 2 that are presented with this Report.

IV

FINAL ASSEMBLY DEBATES

M. POLITIS,
*former Minister for Foreign Affairs and First Delegate of Greece,
Rapporteur of the First Committee :*

Mr. President, ladies and gentlemen—My distinguished colleague, Mr. Benes and myself are here to-day to report on the work of the First and Third Committees. In your resolution of September 6th you instructed the Committees to study the first two factors in the great problem which the Fifth Assembly was called upon to study, arbitration, security and the reduction of armaments.

We appear upon this platform together because you associated your two Committees in a common task. We have therefore submitted to you a joint report and we will in turn give you at this meeting the additional explanation which will, we hope, gain your unanimous approval for the work that we have done.

I propose to put before you as briefly as possible the conclusions which here reached by the First Committee.

The Resolution of September 6th instructed us to examine the two following questions: firstly to consider, in view of possible amendments, the articles in the Covenant relating to the peaceful settlement of international disputes, and secondly, to examine the terms of Article 36, paragraph 2 of the Statute establishing the Permanent Court of International Justice and to define them more precisely in order to facilitate the more general acceptance of the clause by all States.

I will begin with the second point which requires less explanation.

Article 36 paragraph 2 of the Statute of the Court provides States, which in principle could only recognise the jurisdiction of the Court as optional, with an opportunity of accepting it as compulsory in some of all of the classes of disputes enumerated in Article 13 of the Covenant.

Up to the present only a few States have adhered to the special Protocol opened in virtue of article 36, paragraph 2 of the Statute of the Court, because the majority did not see their way to accept compulsory jurisdiction in all the cases comprised in the classes of dispute referred to, and also because they were not sure whether in accepting they could make the reservations which they consider indispensable.

Careful examination of Article 36 showed that the elasticity of its terms was such as to admit of a large number of reservations and that States having serious reasons for refusing compulsory arbitration in certain special eventualities are able to do so by means of a formal reservation. Upon these grounds, therefore, we have considered it possible to insert a clause in the Protocol inviting the States to undertake to accept within the month following the

entry into force of the Protocol the compulsory jurisdiction of the Permanent Court of International Justice in some or all of the classes of dispute covered by article 13 of the Covenant subject to reservations which will, we hope, be confined to what is strictly necessary.

Pending the coming into force of the Protocol States will retain the right conferred upon them by article 36 of adhering to it on their own initiative, optionally, and subject to reservations, and we propose that you should recommend them to adhere to article 36, even before the Protocol has come into force, and consequently before the obligation to sign the article has thereby devolved upon them.

It should not be too hastily concluded that the recognition of the right to adhere to article 36 with reservations is likely to diminish unduly the range of the compulsory jurisdiction of the Court. We are entitled to hope that countries adhering to article 36 will exercise great circumspection in regard to the reservations they make; it may even be hoped that many of them will be willing to adhere without any reservation other than that of reciprocity.

In any case, whatever the sum total of the reservations made by the States adhering to the special Protocol of article 36, a great advance will have been made which until quite recently appeared impracticable.

So much for the first point submitted to the First Committee for consideration. I now come to the second, which is much more important and which calls for somewhat fuller explanation. Your First Committee was asked to examine the system set up by the Covenant for the settlement of international disputes, in order to see what improvements or additions could be made, with a view to extending the application of pacific procedure to all international disputes without exception.

You are all familiar with the system set up by the Covenant. I need only summarise it very briefly.

Article 12 of the Covenant imposes on the members of the League the general obligation of submitting any disputes which

may arise either to arbitration or to enquiry by the Council. Arbitration therefore remains optional, but if the parties do not agree to have recourse to arbitration they are obliged to appear before the Council. The Council makes an enquiry into the case and the dispute is only definitely settled if the Council is unanimous in recommending a solution. A unanimous recommendation by the Council is binding and a country having resort to war against a State which complies with such a recommendation is regarded as violating the Covenant and incurs the sanctions provided in article 16.

Such, briefly, is the system established by the Covenant. Its imperfections and omissions are self-evident. These imperfections and omissions we have endeavoured to remove and we firmly believe that we have succeeded.

In the Protocol which we submit for your approval a system has been organised which is applicable to all international disputes without exception.

It lays down a certain number of rules which will be compulsorily applied as between States which sign the Protocol.

To begin with, the system will be a two-fold one; there will be the system of the Covenant, which will be applicable between the States Members of the League, and the special system of the Protocol, which will be applicable between the States who have accepted this diplomatic instrument.

There will not, however, always be two systems. It is proposed that the main provisions of the Protocol should sooner or later be converted into amendments to the Covenant according to the normal procedure of revision laid down in article 26.

One of our resolutions invites the Assembly to request the Council to appoint a special Committee to draft the amendments to the Covenant contemplated by the terms of the Protocol, which will then be submitted for final approval to the next Assembly.

At the root of all the rules contained in the Protocol there is the general principle that, henceforth, wars of aggression are condemned. Henceforth, no war of aggression will be tolerated;

only acts of legitimate defence or acts undertaken on behalf of or with the authorisation of the community of the signatory States will be allowed, and every private war, every war of aggression, will not only be condemned and regarded as an international crime, but will be attended by sanctions and accompanied by the necessary penalties to prevent it, and in case of need, to suppress it.

In order to secure this result, the Protocol establishes a series of procedures covering every kind of dispute and which, in all cases, result in a definite decision.

This is how the system works. Suppose that under article 15 of the Covenant a dispute which it has proved impossible to settle by judicial means or by arbitration comes before the Council, the Council fails to reconcile the parties, and the latter do not agree, despite a last urgent appeal, to have recourse to optional arbitration. Arbitration then becomes compulsory on the following terms :

Arbitration becomes compulsory first of all if one of the parties demands it. If the parties fail to agree upon the constitution and powers of the arbitrators and upon the procedure, the Council will be called upon to undertake this. Such is the first case of compulsory arbitration provided for in the Protocol.

If either party applies for arbitration, the Council will consider the substance of the dispute and pronounce a decision. This decision can only be taken if the Council is unanimous. It will be binding upon the parties and is attended with sanctions.

If the Council is not unanimous as to the solution to be imposed upon the parties, the dispute will automatically be submitted to arbitration—the second case of compulsory arbitration—the organisation of which is left entirely in the hands of the Council.

You will notice that under the system provided in the Protocol a final and binding settlement is certain to be reached in all disputes either under the first case of arbitration, if requested by either party, or by a unanimous decision of the Council, or under the second case of arbitration, which follows automatically if the Council is not unanimous.

It has been possible to give such wide range to the principle of compulsory arbitration owing to the fact that the Protocol has removed an obstacle which had hitherto prevented the extension of this principle.

At the Assembly meeting on September 6th, I had the honour of pointing out that, whereas with optional arbitration guarantees were needless, with compulsory arbitration they were indispensable.

It is only because we have succeeded in surrounding it in all cases with effective sanctions that we have been able to provide for compulsory arbitration in the cases I have just indicated.

The sanctions enforcing arbitration and, in general, the final decision by which every dispute will henceforth be settled, will vary according to the extent of the resistance offered to the execution of that decision.

If the resistance is purely passive, the sanction will take one of the following two forms. In the first instance the Council will bring pressure to bear and will use all the weight of its authority to induce the recalcitrant parties to submit to the decision. If this peaceful pressure has no effect, the Protocol recalls the fact that under article 13 of the Covenant the Council has the necessary recourses and powers to enforce the decision. The Council will take measures appropriate to the circumstances — usually economic measures.

If the recalcitrant party offers stronger resistance, and if instead of remaining purely passive it has resort to force and so endangers international peace, more drastic sanctions will be applied, namely, those provided for in article 16 of the Covenant as interpreted and amplified in the Protocol ; these sanctions are not merely economic but also military.

Such are the various sanctions which will ensure that in every case the final decision, once it has been pronounced will be treated with the respect due to the pacific settlement of a dispute.

The application of this system is automatic and compulsory as between the signatories of the Protocol. Its application is optional as between members of the League, should some of the parties to the dispute be signatories and others not signatories.

In such an event the State Member of the League which is not a signatory of the Protocol will be invited to accept the pacific procedure provided in the Protocol. If, however, this Member refuses, it cannot be compelled to accept this procedure, and there will be no alternative but to apply the system provided in the Covenant.

The system will apply strictly to States which are neither signatories of the Protocol nor Members of the League. As regards relations between signatories and non-signatories, the Protocol adapts the rules provided in article 17 of the Covenant. The non-signatory will be invited to conform to the pacific procedure of the Protocol. If it refuses and has recourse to war, the sanctions of article 16 of the Covenant, as interpreted and amplified by the provisions of the Protocol, will be applied to it.

The application of this system does not in any way affect the powers of the Council or of the Assembly. Should the Assembly be in a position to intervene in the settlement of disputes under the terms of article 15 of the Covenant, it will retain its full powers. It can undertake an enquiry into a dispute and can recommend a solution, which, if it fulfils the requisite conditions laid down in that Article, will be as final and as binding as a unanimous decision by the Council.

It has, however, been thought necessary to leave it exclusively to the Council to take such purely executive action as may be necessary in the course of pacific procedure, such as the appointment of arbitrators, consultation of the Permanent Court of International Justice and so forth, as the Council is much better qualified than the Assembly to take action of this kind. The general principle of the competence of the Assembly as laid down in Article 15 of the Covenant is, however, retained under the system laid down in the Protocol.

For the purpose of the practical application to all international disputes of the system we have elaborated, we were obliged to take into account the diverse exigencies of international politics and to make the system sufficiently elastic to be adaptable in all circumstances. We have accordingly allowed for a certain

number of exceptions. The Protocol will not apply to the following categories of disputes :— disputes arising out of a unanimous recommendation taken by the Council prior to the coming into force of the Protocol and accepted by at least one of the parties ; disputes arising out of acts of violence committed in the name or with the authorisation of the League ; and disputes which relate to treaties in force and which seek to jeopardise the existing territorial integrity of States.

The Committee decided that it was quite useless to make explicit mention in the Protocol of the third category, as it was obvious that the pacific procedure laid down in the Protocol would not apply in a case of this kind ; the procedure in such cases will be the special procedure stipulated in article 19 of the Covenant for the reconsideration of treaties and the consideration of international conditions.

There is, finally, another category which does not fall within the terms of application of the Protocol, namely, the cases referred to in article 15, paragraph 8 of the Covenant.

This clause provides for the protection of national sovereignty. It prescribes that, in proceedings before the Council one of the parties to the dispute claims that the question is solely within its domestic jurisdiction, and if the Council unanimously recognises that the claim is justified, the latter must stop the proceedings and must restrict itself to recording the fact without making any recommendation to the parties.

This constitutes what I may call a preliminary question, which must be answered first and which, if answered in the affirmative, will preclude the examination of the substance of the dispute for the reason that such examination is barred under international law.

The Protocol, of course, maintains this rule for the protection of national sovereignty. To avoid any possible ambiguity we decided to mention the fact explicitly in the case of disputes submitted to the Council. We considered it only logical, therefore, that the same rule should apply to the case of disputes submitted to arbitrators.

Should one party claim in proceedings before the arbitrators that the question is solely within its domestic jurisdiction, the arbitrators must, like the Council, restrict themselves to ascertaining whether the claim is correct and must refrain from further action, that is to say, from examining the substance of the matter.

In the case of arbitration procedure, however, we held that, as the disputes in question were of a legal nature, it was desirable that the Permanent Court of International Justice should be consulted compulsorily, and that its opinion in the matter should be binding on the arbitrators—that is to say, if the Court pronounced the question to be really within the domestic jurisdiction of one of the parties, the arbitrators would be bound to confine themselves to recording the fact in their award without examining the substance of the matter.

While, however, the Committee considered it essential that the rule contained in article 15, paragraph 8 of the Covenant, should be explicitly referred to the case of procedure before the Council and adapted to the case of procedure before the arbitrators, we also thought it necessary, in order to make its application more flexible, to make a reference to, important provision of the Covenant, that contained in article 11, under the terms of which, in the event of war or a threat of war the Council will, on the request of any interested party, meet forthwith and consider the best means for safeguarding the peace of the world.

Article 11 is referred to in the Protocol in order, as I said just now, to render article 15, paragraph 8 somewhat more flexible in application.

It is thus agreed that when the Council or the arbitrators have decided that a question comes solely within the jurisdiction of one State, any interested party will have full and unrestricted right to apply for the intervention of the Council or the Assembly under the terms of article 11 of the Covenant.

It is further agreed that the reference to article 11 does not in any way modify the situation contemplated in the Covenant. There is no intention of increasing the powers of the Council or the Assembly in any way whatsoever in cases of this nature.

These bodies can only give opinions which will in no way be binding upon the parties. The settlement recommended by the Council will only become binding subject to the consent of both parties.

Lastly, it is agreed that the final resort to conciliation contemplated in article 11 will only be applicable in cases where the substance of the dispute has not been examined. In all cases, however, in which a final decision has been taken upon the substance of the dispute, whether by the Council, by the Court or by arbitrators, article 11 is inapplicable.

Only one more stone was wanting to complete the structure which we had attempted to build. The Protocol condemns wars of aggression and offers all parties in all cases a pacific procedure involving a final and binding decision which is enforced by sanctions. With a view to the immediate and infallible application of the sanctions we had to decide which was the State originally responsible for a war of aggression, — in other terms, to define and determine the aggressor in each case.

This definition is an easy matter and we found it without difficulty.

It is sufficient to say that any State is the aggressor which resorts to war in violation of the engagements contracted by it either under the Covenant or under the Protocol. It is however extremely difficult to apply this definition in each particular case. Once war has broken out, once hostilities have commenced, the question of determining which side began them is a question of fact concerning which opinions may differ.

The first idea which occurred to the members of the Committee was to make it the duty of the Council to determine who was the aggressor in each case, but it was soon realised that intervention by the Council would be attended by many disadvantages, whether that body were given the right to take decision unanimously or by a majority.

The Committee accordingly attempted to devise an automatic procedure which would obviate any discussion whatever and would make it possible to determine forthwith by a combination

of various external criteria which was the State originally responsible for a war of aggression.

We believe that we have found a solution by means of a system of "presumption."

Our proposal is that you should say that there is a presumption, which shall hold good until the contrary has been established by a unanimous decision of the Council and which arises in a series of hypotheses the importance of which I recommend to your most particular attention.

These hypotheses are three. The first is that of a State which resorts to war after refusing arbitration or refusing to submit to the decision by which the dispute was finally settled. The next hypothesis is that of a State which resorts to war in violation of the provisional measures enjoined by the Council during proceedings for a pacific settlement. The third and last hypothesis is that of a State resorting to war in disregard of a decision recognising that the question in dispute is exclusively within the domestic jurisdiction of the other party, or by failure to employ the last chance of conciliation offered in article II of the Covenant.

It will be noticed that there is an essential difference between the first two and the third hypotheses. Whereas in the first two a presumption of aggression exists if the state of war is accompanied merely by a single condition, in the third hypothesis two conditions are required, first, that a State has disobeyed a decision which recognises that the question is solely within the domestic jurisdiction of another State and, secondly, wilful failure to take advantage of the special provision contained in article II of the Covenant.

This difference is due to the consideration that in the matter of defining aggression it is necessary to render article 15, paragraph 8 of the Covenant more flexible by showing a State which has been non-suited that it still has in article II of the Covenant a last resource for obtaining conciliation. We had therefore to find some means of reconciling the article in the Protocol which contemplates the application of article 15,

paragraph 8, of the Covenant with that which I am now analysing in the matter of aggression.

We considered that it was only just that a State, which was prevented under the terms of article 15, paragraph 8, of the Covenant from having the substance of a dispute discussed should be given a last chance of conciliation before it was abandoned to itself and so driven to make war on the country which had reserved the question as being within its domestic jurisdiction.

I must ask your careful attention to the intricate machinery which I have just described. Should both conditions exist in a single case, there is presumption of aggression. Should both conditions not exist in a single case, war is still forbidden—this rule is by no means abolished. A war undertaken by a country which, having exhausted all available remedies, in the last resort infringes a decision by which the question in dispute was recognised as falling exclusively within the domestic jurisdiction of its adversary—such a war is still forbidden ; if undertaken, it will bring into play the sanctions which I mentioned a few moments ago. The only difference is that when the two conditions regarding an act of aggression exist in a single case, there is presumption of aggression. If they do not both exist there is no such presumption and the aggressor must be determined in accordance with a procedure which will be valid for all cases in which there is no presumption.

What is this procedure ? In cases in which there is no presumption of aggression, the duty of determining the aggressor has to be left to the Council.

If the Council decides unanimously as to the aggressor, there is no difficulty. If the Council is not unanimous, the Protocol, in order to obviate the possibility of a deadlock, proposes that the Council should be bound to enjoin an armistice upon the belligerents and that it should fix the conditions of the armistice by a two-thirds majority, not including the votes of the parties concerned—according to the general rule contained in article 15 of the Covenant and referred to at the end of article 16.

The State which violated the armistice or rejected the conditions would automatically be treated as the aggressor.

The sanctions contained in article 16 will immediately become operative once aggression has been established either by presumption or by a unanimous decision of the Council, or as the result of rejection or violation of the armistice. The only action to be taken by the Council—this is a duty which is enjoined upon the Council and which it cannot conceivably fail to discharge—is that of reminding the signatory States that it is their duty forthwith to apply against the State thus declared the aggressor the sanctions contained in article 16 of the Covenant, as interpreted by the special provisions of the Protocol.

In order to leave no room for doubt it has been formally laid down that States which, at the invitation of the Council and in execution of their international obligations, apply sanctions against the aggressor should, if and in so far as they are authorised to use force, be regarded as belligerents and should benefit by the prerogatives attaching to their status as such.

I have given you a brief survey of the Committee's work. It provides, we are convinced, a complete system which will henceforth guarantee the maintenance of peace to those States which sign the Protocol.

An important advantage inherent in this system is, firstly, that States who might be tempted to have resort to war will fear the sanctions which will be immediately applied against them. This deterrent effect of the Protocol, which will, I am sure, prove most efficacious in practice, will in itself prevent very many wars. And even if that were not the case, if a State possessed by the evil spirit of war did not fear the sanctions but had recourse to force, its action would be considered an international crime and would immediately be exposed to the collective punishment of the States signatory to the Protocol.

I repeat that those States which sign the Protocol may henceforth be considered as holding a guarantee of peace. War will be either averted or suppressed. A State which is threatened with aggression will in the great majority of cases be safeguarded. And

if war were unhappily declared against it, it would have the certainty, as the statement on the work of the Third Committee will shortly show you, that it would be surrounded by every possible security that could induce its adversary to come to terms at the earliest possible moment.

Nevertheless, although our system thus affords an immediate guarantee of peace, it does not yet fulfil every requirement as regards justice. It marks a first step in that direction. It certainly checks wars, it strives by indirect means to prevent them, but it cannot claim to be certain of success in preventing all wars.

The essential reason for this powerlessness, which we could do nothing to remedy, is that for a long time to come there will continue to exist general causes of war not arising out of questions of law. These causes will continue to exist, because there are certain disputes which cannot yet be settled by the application of rules of law. There will be no infallible safeguard against an outbreak of war until the law has been further developed, until rules have been laid down to cover every situation which may arise, until we can be sure that all disputes can be settled not only in a peaceful but also in a juridical manner.

The League of Nations is now entering upon a new phase. It has given the nations a guarantee of peace ; it must now give them justice.

In dealing with the difficulties which we had to surmount at the close of our work we were all, lawyers and statesmen alike, fully awake to the dangers to which peace was exposed as a result of the deficiencies of international law, and we realise that, if our work is to be complete, if we desire that it should give the nations justice as well as peace, we must soon endeavour to determine how we can remedy these deficiencies in the law.

Now that our work has come to an end, we realise that, if we wish to keep peace ever with us, we must not expect her to live long alone. There must dwell beside her her beloved sister — justice.

Dr. BENES,
*Minister for Foreign Affairs and first delegate of Czechoslovakia,
Rapporteur of the Third Committee.*

Mr. President, ladies and gentlemen — M. Politis, Rapporteur of the First Committee has explained to the Assembly with his usual clearness and lucidity and with admirable eloquence the whole of the machinery of the system of Arbitration embodied in our Protocol. My task consists in drawing your attention to the salient characteristics of the articles of the Protocol connected with the two main ideas which underline it ; security and the reduction of armaments.

I do not intend to repeat before this Assembly all I said at the Third Committee nor what I have written in the report before you. Those commentaries are extremely important. They throw light on and complete the text of the articles of the Protocol and they should be read and studied thoroughly, because, they indicate the spirit in which the Protocol is to be applied.

I will give you instead a short summary of what we have done in the Third Committee and, without entering into details, I will show you what are the essential problems which we have studied and on which we have taken our decisions.

The First Committee has instituted a system of peaceful settlement of disputes and has devised the methods and machinery to be used ; it has specially devoted its time to finding a means of determining clearly and quickly which State is the aggressor.

In other words, the first part of the Protocol is intended to obviate the possibility of a conflict.

It works out the procedure to be followed in dealing with every dispute as it arises. Either it effects a peaceful settlement or, the conflict breaking out, it has to indicate the guilty party and decide which State is the aggressor.

The second part of the Protocol is a logical continuation of this constructive work ; as soon as a conflict has broken out, and when once it is shown which State is the aggressor, the machinery of

sanctions has to be set in motion. Accordingly, the second part of the Protocol deals with the working of the system of security and sanctions.

In this system of security and sanctions we have considered a certain number of questions of which I should like to give you a brief survey.

As soon as it has been decided which State is the aggressor, the system of sanctions becomes operative and has to be set in motion. The three following questions then immediately arise :

- 1) How is the system of sanctions to be set in motion ?
- 2) Of what nature are the sanctions that become operative ?
- 3) What is the scope of these sanctions ?

The replies to these three questions comprise the outstanding features of the whole system embodied in the Protocol and manifestly affect the vital problems in the policy of any Member of the League.

The setting in motion of the system of sanctions is closely connected with the definition and designation of the aggressor. When once the Council has decided which State is the aggressor, according to the system which M. Politis explained to you, and which introduces into this machinery an automatic element leaving very little room for doubt, it calls upon the States to apply sanctions forthwith against the aggressor.

There then arises the second question as to the nature of these sanctions. The Protocol says quite clearly in article 11 that, as soon as the Council has called upon the signatory States to apply sanctions, the obligations of all kinds they incur under article 16, sub-paragraphs 1 and 2 immediately become operative in order that such sanctions may forthwith be employed against the aggressor. This means that economic and financial sanctions, as well as military, naval and air sanctions, must be applied if the occasion is considered to demand them.

If we compare the Protocol with the Covenant we see that in the Protocol the problem of sanctions has been solved in a very clear, precise and decisive manner.

I will not go into the details which I made sufficiently clear in the discussions in the Committee. I merely wish to indicate here the principle in its main outline without in the least modifying what I said in the commentary contained in my report.

I consider that the fact that these points are so clearly defined is a sure sign of great progress and that if the rest of the system in our Protocol works as smoothly as we hope, we may consider the system of sanctions applied in this manner to be a really adequate one.

But there is one last question relating to sanctions ; how far is each State obliged to apply sanctions ? What forces should it place at the League's disposal to defend a State attacked ?

I think that article II of the Protocol states this sufficiently clearly and explicitly : " These obligations shall be interpreted as obliging each of the Signatory States to co-operate loyally and effectively in support of the Covenant of the League of Nations and in resistance to any act of aggression in the degree which its geographical position and its particular situation as regards armaments allow ".

We therefore have a standard fixed for us : " loyally and effectively ". This standard may not be a mathematically exact one but it is all the same sufficiently definite to serve as a guarantee.

I am well aware that doubts might arise on this point. But do you not think, gentlemen, that when the system of arbitration is set in motion and acquires prestige, and when the signatory States decide to take action against the aggressor the force of international public opinion and their own moral sense, to say nothing of their own interests in putting an end as soon as possible to a dangerous dispute, will induce them to meet their obligations loyally and effectively ? I personally am prepared to believe that they will do so.

I therefore consider the replies to these three disturbing questions concerning the application of sanctions to be satisfactory, provided, as I have already said that, the rest of the system works properly and is applied in good faith.

In my report I have explained the differences between the system of sanctions embodied in the Protocol and the system embodied in the Covenant. I will not return to that point, but it must be borne in mind, because we have made considerable progress.

I now pass to the second fundamental question dealt with in the Protocol.

In the system of security which we have developed in the Protocol, the signatory States are, concerned with the aggressor on the one hand and with the party attacked on the other. The system of sanctions of all kinds is applied against the aggressor ; but we have not wished to establish a system of punishment alone, we have also wished to provide a definite scheme of assistance to the victim of the attack.

We have completed the system of sanctions against the aggressor by a system of economic and financial assistance to the State attacked, which would clearly render the system of sanctions doubly effective. The Protocol gives a sufficient account of the details of this assistance. I think I may confine myself to drawing your attention to this question, which in specific cases may have a decisive influence on the course of events.

The text of the passage in article 11 of the Protocol dealing with the questions of the assistance to be given to the State attacked sufficiently demonstrates the true significance of our proposal. It reads as follows :

“ In accordance with paragraph 3 of article 16 of the Covenant the signatory States give a joint and several undertaking to come to the assistance of the State attacked or threatened, and to give each other mutual support by means of facilities and reciprocal exchanges as regards the provision of raw materials and supplies of every kind, openings of credits, transport and transit, and for this purpose to take all measures in their power to preserve the safety of communications by land and by sea of the attacked or threatened State. ”

The third important point in our system consists, on the one hand, in the preparation and the application of the sanctions and,

on the other, in the preparation of economic and financial assistance. The constant inter-relation between these two aspects of security, is one of the most essential characteristics of the Protocol.

In view of the complexity of the conditions in which the system of sanctions and the system of economic and financial assistance might have to be applied, the necessary preparations should be made in advance. Accordingly, the Council through its competent organs will draw up, first, plans of action for the application of the economic and financial sanctions against an aggressor State and, secondly, plans of economic and financial co-operation between a State attacked and the different States assisting it.

In addition to these purely economic and financial preparations, we have provided for measures of a military character without at the same time transforming our system into a military machine. Hence in article 13 we have stipulated that "the Council shall be entitled to receive undertakings from States, determining in advance the military, naval and air forces which they would be able to bring into action immediately, to ensure the fulfilment of the obligations in regard to sanctions which result from the Covenant and the present Protocol."

In order to make the system complete, we have embodied in the Protocol provisions concerning special treaties as a means of carrying out obligations resulting from the Covenant and as an addition to the general guarantees provided for in the Protocol. From this point of view separate treaties are embodied in our system as a species of military preparation similar to the economic and financial preparations provided for in the Protocol.

As you will observe, the scheme of sanctions constitutes a complete and comprehensive system of security; it unquestionably offers guarantees to that end, which are, I repeat, fully sufficient in themselves, if the rest of the system works smoothly and regularly.

As I desire to show the Assembly the working of the system laid down in the Protocol I will not enter into questions which we have already debated time and again. I will not revert to the

principle of the inter-dependence of arbitration, security and disarmament, as this has already been definitely approved and accepted by the Assembly. Nor will I refer again to the controversy on the subject of special treaties. The system of arbitration will remedy their chief defects, and as they will be incorporated in the system of obligations arising out of the Protocol, they will become servants of the good cause. I think therefore that we need never again discuss their legitimacy or expediency.

We have still to consider a fourth group of questions. The definition and determination of the aggressor is so difficult a problem that special methods have had to be evolved in order to facilitate the fixing of responsibility for aggression. Three special methods have been taken into consideration, namely :

1. The establishment of demilitarised zones, the violation of which can readily be determined and will therefore be regarded as equivalent to an act of aggression.

2. The adoption by the Council of so-called provisional measures such as orders to withdraw troops, to declare an armistice, to stop movements of troops, and so on. In this way it will be relatively easy for the Council to determine the aggressor.

3. The provision of means for keeping a watch on preparations for war ; certain provisions of the Protocol are aimed not only at definite acts of aggression, but also at threats of aggression. In such cases the Council can bring into play the system of provisional measures accompanied by enquiries and investigations, and we shall thereby obtain sufficient security against States guilty of bad faith.

In addition to these three questions concerning the aggressor, there is a fourth, namely, the punishment of the aggressor. The penalties provided for in the Protocol do not include annexation of the aggressor's territory or curtailment of his political independence. He will be required to make economic and financial reparation up to the extreme limit of his capacity, not excluding measures of all kinds which will provide guarantees against further aggression.

I have still to deal with the last fundamental question in the Protocol: the reduction of armaments.

In view of the close inter-connection between the three great problems before us—the pacific settlement of disputes, sanctions against disturbers of the peace of the world, and the reduction of armaments, the Protocol itself provides for the summoning by the Council of a General Conference on the Reduction of Armaments and for the preparation of the work of this Conference. Moreover, the clauses regarding arbitration and sanctions do not come into force unless a plan for the reduction and limitation of armaments is adopted by that Conference.

Moreover, in order to preserve the connection between these great problems, the Protocol is to become null and void if the plan adopted by the Conference is not carried out. This point will have to be determined by the Council according to conditions laid down by the Conference itself. We are all agreed that it would have been preferable to bring the system into operation more rapidly, but for a number of political reasons it is impossible to do so for the moment.

The last paragraph of article 21 provides for the contingency of the Protocol partially lapsing after it has been put into force.

Should the plan adopted by the Conference be regarded as having been put into effect, and should any State fail to carry it out in so far as it is concerned, that State would not benefit by the provisions of the Protocol.

But just as we have established a special parallel between the principle of sanctions against the aggressor on the one hand and the principle of affording assistance to the victim of aggression on the other, we endeavoured, in accordance with the principle of the progressive reduction of armaments, to mark out a kind of parallel in drawing up the plan of disarmament, that is to say, to indicate briefly the conditions under which the reduction of armaments would be carried out. The reduction of armaments will be brought about principally through the general security resulting from the reduction of the danger of war—a consequence of the system of the compulsory pacific settlement of all disputes.

It will also be brought about by the fact that the State attacked can rely upon receiving economic and financial aid from all the signatory States.

Nevertheless, in the case of States, which, owing to their geographical situation, are particularly exposed to acts of aggression, the dangers of a sudden attack are so great that they will not be able to base their scheme for the reduction of armaments solely upon these two political and economic factors.

Consequently, as has been frequently pointed out, a number of States will desire, before the Conference is summoned, to know the extent of the military assistance on which they can rely, if they are to lay before the Conference proposals for the reduction of armaments on any considerable scale. For this reason the Governments may possibly have to enter into negotiations among themselves and with the Council regarding the reduction of armaments before the Conference is held.

The Council will have to take all these points into account, as well as a number of other factors, in drawing the general programme of the Conference.

* * *

Such are the essential principles of the second part of the Protocol to which your attention is specially drawn in the resolution at the end of the report of the First and Third Committees. M. Politis and I submit this resolution for your acceptance; if it is adopted it will fittingly crown the work of the fifth Assembly.

Moreover, in view of the necessary preparations for the Conference on the Reduction of Armaments having been entrusted to the Council, I venture to submit for your acceptance the second resolution, which will shortly be read to you and which indicates a number of important questions which should be placed on the programme of the future Conference.

In conclusion, gentlemen, let me say this. The fifth Assembly has taken in hand a great work, fraught with incalculable consequences and well-nigh limitless hopes. It has at a stroke assumed

the task of rendering war absolutely impossible. In order to attain this end, it was necessary to create a system of pacific settlement for all the disputes which can possibly arise. In other words, we have endeavoured to create a system of arbitration such that no international dispute, whether juridical or political, can possibly lie outside its compass.

But the scheme must necessarily be complete in every part, and it must be applicable to every type of question. A single loophole, a single door of escape, and the whole structure is threatened with ruin. It was above all essential that the term "aggression" should be so clearly defined that there could be no possible ground for hesitation if the Council were called upon to take a decision.

For the same reasons we have endeavoured to make good the deficiencies of the Covenant and to define the sanctions so precisely as to allow no possibility of evasion, and to give a sense of definite and absolute security.

It is hard for us to-day to say positively whether the system we have established is really as water-tight or complete as it should be. Already we hear critics expressing their doubts. If the Protocol once comes into force we shall soon learn by practical experience whether we have succeeded.

I venture to say, however, even at this stage, that if it is dangerous to trust solely to the good faith of others, it would be equally dangerous entirely to exclude moral considerations and good faith from our system. In any case, the Czechoslovak Government is prepared to sign and ratify the draft Protocol at once.

Lastly, the Conference on the Reduction of Armaments is indissolubly bound up with the whole system. There can be no arbitration or security without disarmament and there can be no disarmament without arbitration and security.

In terminating my report, I will venture to point to three facts which are both interesting and important.

Like many of my colleagues, I have taken part from the outset in the work of the League of Nations at Geneva, and I can assure you that never before has the Assembly been animated by such

sentiments as it has this year. Never before has the spirit of international solidarity and true humanity permeated our work so profoundly as during the last five weeks. The heavy work of the two Committees has called for the utmost efforts of every one of us, and if I were to do justice to all our colleagues who have untiringly laboured with us on this task I should never come to an end.

I am sure you will pardon me, however, if, as the representative of a small country, I venture to refer more particularly to the invaluable work done by the delegates of France, the British Empire, Italy and Japan. I say this because I desire to recall now, when we have completed our work, what was said in this Assembly during the memorable discussion of the first week, that the peace of the world largely depends on the situation of the small nations, and that the small nations will not be safe until the Great Powers can ensure the operation of a system of compulsory arbitration and sanctions. We must offer the small nations our heartfelt thanks and congratulations for the courage they have shown in discussing problems which are of so critical a character both for them and for us all, and which have vexed every nation in the world for centuries.

I now come to the second important fact. In the discussions of the last five weeks we have given voice to ideas which, once launched, will make their way across the world with the irresistible force of an avalanche. We must, think, frankly recognise the position; the idea of the peaceful settlement of disputes, with all the consequences which we have deduced from it, has made such progress in the last five weeks that it can never again be lost sight of.

The third and last fact, and the most important of all, for us, is this, that in the work of the fifth Assembly we have definitely linked together three ideas : arbitration, security and disarmament. We have built these up into a system which we have embodied in a Protocol. We hope that the Protocol will be ratified and will come into force. But it would be a great mistake to suppose that the whole system would be reduced to naught if for any reason the Protocol were not applied.

The only result would be that the difficulties which would then arise would be greater than those which faced us before we began.

Then again, we should inevitably find ourselves confronted again next year, at the sixth Assembly, by the same problems as those which we had to face this year. Just as this year we had to settle the question of the Treaty of Mutual Assistance, so next year, should have to settle that of the Protocol. The Third Committee would inevitably raise once more the question of article 8 of the Covenant, and we should have to begin all over again the work which we have been engaged upon this year—possibly in circumstances less favourable for us all than to-day.

We are therefore, I think, in spite of everything, nearer the goal. Our work it is true, is not perfect, but it can be improved by degrees. The Protocol deserves to be signed and ratified and to be put into force, for it embodies a number of just principles which ought to prevail.

I firmly hope and believe that they will prevail.

JONKHEER J. LOUDON,

Former Minister for Foreign Affairs, delegate of the Netherlands.

Mr. President, ladies and gentlemen — Notwithstanding my sincere admiration for him, I mounted this platform barely a year ago to oppose Dr. Benes, the distinguished Rapporteur, on the Draft Treaty of Mutual Assistance. I did not then attempt to conceal my view that that Treaty was unacceptable. And why? Because it was devised solely with a view to security, while the reduction of armaments was relegated to the background and seemed to be a mere shadow. In short, the Treaty, ignoring the general guarantee contemplated in the Covenant, established a system of separate agreements which were more especially dangerous since they were to come into operation automatically and thereby constituted a serious menace to peace.

My task to-day is a very different one. The well-merited reception which the Assembly has just given the rapporteurs shows how highly it appreciates the work which two of your Committees have achieved under the inspiration of the great new idea which the Prime Minister of Great Britain and France jointly submitted to you, that the reduction of armaments could be rendered feasible by general arbitration guaranteed in its turn by common action upon the part of all Members of the League.

Your Third Committee soon realised that the Treaty of Mutual Assistance would not answer this purpose and that there was no longer any real justification for its existence.

Security could no longer be sought in the preparation of a treaty of this kind, for we were, confronted with a plan or system which, so far from separating the three main features of the Covenant, — Arbitration, Security and Disarmament, — combined them in a single scheme. Security was to take the form of sanctions against the aggressor State, the latter being defined as that State which has resort to war by refusing to submit its dispute to pacific settlement, or refusing to accept an award ; while disarmament, which in the absence of any guarantee of security against aggression, had hitherto been only too likely to remain a dead letter, now become practicable except in so far as armaments may still be considered necessary in order to ensure the application of the sanctions involved in common action.

This constitutes a very considerable, nay, an immense advance upon last year, and it is due to the growth of the idea that compulsory pacific settlements are a *sine qua non* for the prevention of wars, and that the observance of this condition is practicable in international relations.

This principle, which was the ruling principle at the Hague Conferences of 1899 and 1907, has also been advocated since then. In 1917 Pope Benedict XV recommended that in future a State which rejected arbitration should be considered as an aggressor.

In the discussions which took place on the draft Treaty of Mutual Assistance, Spain, through her representative, Admiral de Magaz, expressed similar views, while quite recently our American friends,

General Bliss, Mr. Shotwell and others submitted to the League of Nations a valuable scheme based on the same principle.

It is, however, solely due to the memorable agreement reached between Mr. Ramsay MacDonald and M. Herriot that we now have before us a draft setting forth in detail a great scheme of which a Henri IV, an Emeric Crucé or an Abbé de St. Pierre — all three Frenchmen — might well have been proud, and which, inspired by our inviolable Covenant enshrines the threefold article of own immortal creed — Arbitration, Security, Disarmament.

M. Politis gave a masterly definition of this threefold article of faith in his report, in which he says: "The object of the Protocol is to facilitate the reduction and limitation of armaments provided for in article 8 of the Covenant of the League of Nations, by guaranteeing the security of States through the development of methods for the pacific settlement of all international disputes and the effective condemnation of aggressive war."

The term "aggressor State" was not defined by the Covenant, and a definition is therefore provided by the Protocol. Generally speaking, the aggressor is the State which has resort to war in violation of the Covenant or of the Protocol, refusing either to submit its dispute to the procedure of pacific settlement or to accept either a judicial or arbitral decision or a unanimous recommendation of the Council.

The masterly definition contained in article 10 of the Protocol regarding the presumption of aggression after hostilities have broken out redounds greatly to the credit of the lawyers who drafted it and — I think I may add without indiscretion — to the credit of our colleague who, though no lawyer, showed such a wonderful sense of law that the title of jurist was conferred upon him by his colleagues on the Sub-Committee.

The basis underlying the system of the Protocol is, as M. Politis has said, the compulsory pacific settlement of disputes. There will be no more wars of aggression and no more legalised wars in the event, contemplated in article 15 of the Covenant, of the Council failing to settle the dispute. Defensive war alone is allowed

and, as M. Politis rightly pointed out, a State having resort to this legitimate form of war would be, so to speak, the mandatory and organ of the community.

The Protocol is like a buttress to the Covenant. It supplements it, particularly in regard to conciliatory methods of procedure. It supplements the provision in article 12 of the Covenant for recourse to judicial or arbitral settlement by defining something which is, to borrow a term of M. van Karnebeek's, the keystone of the whole edifice, namely, the conciliatory functions of the Council.

If the Council's efforts at conciliation fail in the first instance, it can go further and exercise its authority, first, by recommending arbitration, and secondly, if the parties refuse to accept it, by imposing on them its own decision, provided that decision is unanimous, or, if it is not unanimous, by making the parties once more submit to arbitration.

Whatever happens, a solution will be found and, if the parties seek to evade it, there will be appropriate sanctions.

These sanctions are defined in principle by article 12 of the Protocol, which confirms article 16 of the Covenant. The wording of article 12 makes it quite clear that henceforth the measure of economic and financial sanctions necessitated by the circumstances will become operative immediately the Council has pronounced a formal order.

It is clear that the fourth provision of the Assembly resolution of October 4th, 1921, which left the States Members of the League of Nations free to judge whether or no a breach of the Covenant had been committed, could not be retained under the new system, which defines the aggressor State so clearly that the Council can have no difficulty in determining aggression and so denouncing it to the States Members with a view to the application of the sanctions.

As regards military measures, the Protocol defines the Covenant and prescribes that the signatories must co-operate therein loyally and effectively in the degree which their geographical position and their particular situation as regards armaments

allow. The part to be borne by each State in the repression by force of arms of an act of aggression committed in violation of the Covenant is to be determined in agreement with the Council, and there is no stipulation as to the extent of its participation, of which each State will remain the sole judge. As the report before you says, the State remains in control of its armed forces, and itself, and not the Council, directs them, although the Council is called upon to give the States its opinion in regard to the best method of fulfilling the different obligations arising when a case of aggression is notified.

As regards the partial agreements mentioned in the draft Treaty of Mutual Assistance, the Protocol marks another very real improvement which I am specially glad to note. These agreements, duly registered and published, and, therefore, in no case secret, will henceforth only become operative by order of the Council.

The provision for automatic operation, therefore, which excited such lively criticism, is eliminated. These agreements, while they last, will be of an entirely novel character. It is perfectly legitimate that they should serve to ensure the rapid application of measures of coercion. But it is also conceivable that one of the signatories of these agreements might be declared the aggressor, and its allies would be obliged to take up arms against it on behalf of the community.

The desire to reduce or at any rate to limit armaments is fully evinced in the Protocol by the decision to convene an International Conference for this purpose on June 15th next, to which all States non-members of the League will also be invited.

The Disarmament Conference will continue the work of the fifth Assembly, and their joint achievement will constitute, so to speak, a second edition of the Covenant, which will be a great improvement on the first.

The Protocol will be submitted to our Governments forthwith. The fact that we vote for the resolution does not bind our Governments, although, as the text says, we recommend

the acceptance of the Protocol to their most earnest attention. This point was particularly emphasised yesterday at the last meeting of the First Committee.

The Netherlands Delegation will vote in favour of this resolution, but not without a certain degree of hesitation, now that articles 10 and 11 of the Protocol, formerly articles 5 and 6, have been modified in consequence of the recent discussions.

It is possible that various questions will have to be settled and that there will be delays before all the Governments have signed. It is also possible — as experience has shown in the past — that the amendments to the Covenant involved in the Protocol will not be ratified as promptly as we desire.

We must be ready for disappointment. We must prepare the world for them and, above all, we must not let the world believe that the ideal to which we aspire is attained. We are still only in the first stage.

In the question of principle, however, what has been done cannot be undone. The main points that have been carried will remain, and, thanks to the motion of the French and British Governments, this Fifth Assembly has been marked by the most notable achievement that the nations of the world have ever accomplished for the prevention of future war.

All of us here have contributed to this result in a sincere spirit of conciliation and good will, striking proof of which has been furnished by the discussions of the last few days.

But at this moment ladies and gentlemen, let us not forget the valiant champions of peace who in previous years have assiduously laboured to solve the problem that confronts us. I refer in particular to Lord Robert Cecil, who I, am sure, would be the first to rejoice with us over the work which it has been given to us to accomplish on a new plan.

I would say in conclusion, let us not forget that, thanks to our united efforts, we have inaugurated the beginning of a great work. It rests with our Governments, and with us by the advice which we give them, to make it a work which mankind can never forget or disregard.

M. ARISTIDE BRIAND,
Delegate of France.

Ladies and gentlemen—I am here on behalf of the French Delegation and with the full assent of my Government to say, in response to the appeal of your Committees : “ France adheres to the Protocol ; France is prepared to sign it. ”

This message should have come from other lips than mine, from one who is better fitted to speak here than I,—the head of the French delegation, my friend, M. Léon Bourgeois, who has devoted his life to the cause of peace.

His health does not permit him to be here. It is one of life's ironies that the man who has ploughed, harrowed and sown the field does not always reap the harvest, and it is an injustice of this kind which has brought me to this platform in place of M. Léon Bourgeois. You will not think it strange, therefore, that my thoughts should turn to him at this moment and that I should express to him my gratitude and that of the members of the French delegation.

Ladies and gentlemen, we may truly say that the Fifth Assembly of the League of Nations opened in an troubled atmosphere. Those who were still new to the idea that wars can cease were doubtful, nay, sceptical, and those who had faith in the League were filled with anxiety and questioned whether the League would ever succeed in the heavy task it had undertaken.

I frankly confess that I myself shared that anxiety.

But now, when we have reached the goal, we may well ask ourselves whether this Assembly was not over, bold in expecting—in such a short space of time, to adopt such complex resolutions, to pass an instrument of such importance as that which has been so ably and brilliantly expounded by the Rapporteurs of our Committees.

When we read this Protocol, which is to place in the service of peace a complete mechanism for conciliation, mediation and arbitration, which is to undertake the delicate task of finding a

criterion by which to discover those guilty of aggression, which is to build up a scheme of sanctions for the maintenance of world peace; when we remember that your Committees have had scarcely a month in which to solve these problems, we cannot but feel the most intense admiration for their members.

They have accomplished an almost superhuman task and I am sure I am voicing your sentiments when I express the deep gratitude we owe them.

Think, gentlemen, if we had failed in our task, what a disaster it would have been, what a blow would have been dealt at the moral authority of the League, what despair would have seized upon the peoples.

When fifty-five nations are gathered together in an Assembly such as this, attempting with a temerity inspired by noble and generous ideals to solve the formidable problem of peace, and recording on their agenda their intention to seek the means of solving this problem, the "man in the street", as our friends in Great Britain call him, cannot conceive that the nations so assembled could fail. In the trustfulness and candour of his mind he could not admit such a possibility, and, if his hopes had been deceived, conceive the effect upon his mind and what he must inevitably be led to think. He could not but say to himself: "Then war is inevitable; it is a disaster which we cannot avert", and he would be driven to wonder in his inmost mind whether, in face of such a complete confession of bankruptcy on the part of his rulers, he should not turn to the peoples themselves for the key to the problem.

When "the man in the street" learns this evening that the nations assembled here have publicly and solemnly adhered to the Protocol submitted to them, that they have definitely turned their faces towards peace, that they have at last declared war on war and have shewn what methods they have decided to employ to close the road to war, there will arise a movement of enthusiasm which will sweep away scepticism and criticism alike.

War has driven its roots deep and far into the hearts of the nations. It is hard for us, even if our outlook is pacifist, to habi-

tuates ourselves to the thought: that war can ever be destroyed. War is an old enemy whom we have grown accustomed to fight and our minds cannot at once grasp the fact that it is no longer there.

There are some who still do not admit that we are on the eve of a lasting peace. They have mental reservations that prevent them sharing our sentiments or participating in our work. But it matters little. The peace movement has gone forward. Follow its evolution and you will realise how it has grown.

It was born under a dark cloud. At that time, its protagonists, were talked of with pitying contempt. They were shown thinly veiled disrespect; they were called Utopians, dreamers. Compliments were showed upon them, but such compliments as were scarce calculated to encourage them.

Still the idea pressed forward, and at last, behold! it won its way to the front rank of the movements of the day. It took definite shape, and then encountered enemies. A campaign was set on foot against it. Criticism became more searching, criticism accompanied sometimes by insults, almost always by sneers.

To-day criticism still persists, but it is criticism of another kind. Irony, mere, scoffing, have disappeared. The movement has taken definite shape, it has become a solid reality, it is no longer in the clouds. It has the goodwill of many of the nations, it is strong and can defend itself.

To-morrow, when your resolution is unanimously voted by the fifty-five nations represented here you will see the tide of enthusiasm surge high in every land, and the opposition, hitherto so strong, will quail before it. Then you will realise the strength that you yourselves have given to the movement. Henceforth it will pursue its way, upheld by all that is best in the nations, whose one desire is to prevent for ever the return of the horrors of the war they have endured.

Ladies and gentlemen, standing here at this moment, I feel perhaps the greatest emotion I have ever felt in the course of a long political career. My mind goes back to one of the most terrible moments of the war from which we have even yet scarcely emerged.

At that time I bore the responsibility of office in a country whose soil was the battlefield of the greatest war which has ever ravaged mankind. In the tragic hours of Verdun, at the crisis of disaster, who could have thought of peace? Who would ever have dreamt that but a few years later an Assembly such as this would meet and declare that the hour of peace has sounded, that peace has been organised?

Yet I, after having lived through such hours as these, after having known the tortures of suspense, come before you now to say in the name of France that she wishes to banish for ever the spectre of war! I come here to reveal my country as she is, ever true to her traditions of international collaboration, which earned for her in those tragic hours the reward of winning to her side the noblest nations of the world! You will understand the intense joy, the deep yet tender emotion I feel at this moment after certain campaigns of these past years.

Attempts have been made to spread misleading, treacherous propaganda, depicting France as a country that preys upon its fellows, a militarist nation whose strength lies in its bayonets, which was striving to impose a kind of hegemony upon the world, and to realise some hateful imperialistic dream.

To-day, after the debates in this Assembly, whose delegates have given of the best that is in their hearts and minds in order to reach the agreements now before you, I have the right to stand here and say "France, the true France, is here!"

You see her to-day as she has always been, as she has never ceased to be, as she will always be. In the pages of history you often find her helmeted and armed. Why? Because her geographical position designed her to be the sport of war. She has been a soldier; she has fought the good fight. In this last war it was not merely her soil and her liberty that she defended; she fought—and you know it full well—in the defence of traditional principles and the principles not France alone but of humanity and the world. France the daughter of the Revolution, knew that not merely her own existence, but the whole future of international life was at stake.

These are the ideas that she cherishes.

Of course, she defended her national soil, of course, she urged her patriotism to the utmost limit. And if she has remained armed since, it is for the very justifiable reason that, having experienced the horrors of invasion and the blood-stained barbarism of war twice in less than fifty years, she is resolved that it shall never occur again.

Yet when the League of Nations appealed to her to organise a system of peace and security, she did not hesitate for a moment. She responded to your appeal, and you have never once found her unwilling to work with you for the establishment of this pact of mutual assistance which will enable her to throw off the grievous burden of armaments which weighs so heavily upon her.

France desirous to remain hedged with bayonets? France a menace to peace and a danger to the human race? Ladies and gentlemen, that is the bitterest of insults, the most unjust of criticisms. As soon as it was possible for her to reduce her armaments, she did so. She has been in the forefront of movements such as those we have seen in this Assembly. She has reduced the burden of her military service by fifty per cent, she has reduced her effectives by twenty-five per cent and when at Washington the call came for naval disarmament, she at once responded to that call. She reduced her navy by nearly fifty per cent.

When, at the coming Disarmament Conference, you have shown her that every precaution has been taken and every loophole secured, that by the application of the system laid down in the Protocol her security is made certain, you will find her collaborate with the members of that Conference just as she has helped in the work of your Committees from the beginning of this Assembly. It was only natural that she should be anxious for her security. When the French Prime Minister came here with the British Prime Minister and explained our policy, you understood his position, and when you decided to combine into one the three terms of the problem—arbitration, security, disarmament—you

had already found the most logical, the most correct solution of the problem.

Let me repeat - the Protocol submitted to us, if applied both in the spirit and the letter, fully satisfies us. Our one regret is that its executive clauses cannot all be applied at once.

Whatever sceptics may say hereafter, it does afford a real protection against war. The provisions in it for conciliations and arbitration constitute an effective guarantee, for if, as is unhappily too true, war breaks out easily, it may be no less easily averted.

How does war break out? Some incident occurs which stirs the national pride of two different countries. Public opinion, carried away by passion, runs riot. The two countries are sundered; negotiations are broken off; war is declared.

If, at that moment, they could be brought to negotiate, if intermediaries could undertake to bring them together, if a movement of conciliation could be set on foot, if time could be gained for reflection by arbitration or mediation, and the people of both countries could be rescued from the murk of mystic obscurity in which war is born, war would be averted.

Turn over the pages of history, and you will find that, whenever there has been contact, negotiation, attempt at conciliation or arbitration as soon as disputes have appeared on the political horizon, war has always been averted. Whenever war has broken out, one people has rushed headling upon another as if driven without time for reflection by some mystic force that deprives it of reason.

The provisions of the Protocol are, therefore, such as to reassure us. They are accompanied by sanctions and the combination of these two factors in a single system constitutes, in our view, an almost insuperable barrier to war.

The last war has shown us the true nature of disasters of this kind. When it broke out, we turned our thoughts towards the past. We naturally believed that it would be like previous wars, and would have the same results. How mistaken we were! And if to-morrow the horror of war were once more to break upon us, it would be as different from the last war as that was from previous wars.

What is the result of wars like this? Some nations emerge victorious, others vanquished—but all alike are stricken and impoverished. This is what war has become to-day — the ruin of the world and the destruction of the nations.

I ask you — now that you see the measures adopted by your Committees, to which you will to-morrow give living force and which your Governments and Parliaments will, I trust, ratify — I ask you what country would dare to declare war and stake all upon so dangerous a hazard? What could it gain? How could it hope to escape the might of powerful a coalition? Make no mistake. Set us call things by their proper names—what is it that we are doing here?

Animated one and all by a peaceful spirit of international collaboration, we are making a pact between nations great and small — a pact of mutual assistance against war — and we say to the world: “ We will not allow peace to be disturbed hereafter; we will not allow any problem to be solved by other than peaceful means; we will not allow any country to bring upon the world another disaster such as that we have experienced.

I ask those who are willing to reflect — what country, however strongly urged by military ambition, would dare embark upon so perilous an adventure? The enthusiasm that will be aroused among the masses of mankind by the unanimous vote of the nations assembled here will engender the necessary atmosphere of peace and will thereby add another barrier to those you have already reared.

And you, when you have achieved this great work that will be a landmark in the annals of mankind — for we who are living at this hour are so near to these events that, we cannot focus them in their true significance — you will then, I say, have a further task to perform.

One of the delegates of France, M. Jouhaux, who lives among the workers, has told you that certain causes of war still remain, causes of an economic nature. The material interests of countries are very powerful and influence these countries as the interests of individuals influence their feelings. However noble, however

generous those feelings, they are sometimes obscured by the greed of private gain.

You will shortly be called on to consider these economic questions. Having settled the political position, you will be asked to undertake the settlement of these complex problems, and in so doing you will be carrying on your work of pacification.

In this field, as in the political domain, you will find France at your side ready to help.

But to each day its allotted task. The task you have to-day achieved is mighty indeed, and if, as I am convinced, the Protocol submitted to you is unanimously accepted and receives the approval of the Governments, if it is ratified by the Parliaments, we shall have earned the right to say that we have inaugurated peace in the world.

That is my profound conviction, and when I speak to you in the name of France and offer you her adherence, I cannot but feel a deep and overpowering emotion.

The French delegation makes no reservation to the Protocol. We shall sign it as it is. We are sure that those who adhere to it will do so in all sincerity and honesty.

The Protocol binds in honour the States that sign it. Take the question of security. When to-morrow we say to a country "Reduce your armaments to what is strictly necessary, for you have signed a great pact of mutual assistance, and that is your guarantee" — when we say this, it will be our sacred duty, if that country is menaced, and all the more if it is attacked, to give it the security to which it is entitled.

What is best of all in this pact is that it makes no distinction between what are termed the small and the great nations. All nations will unite to defend one, whether small or great. All nations vow to lend one another aid, to bring succour if any is endangered.

Ere the Conference meets which is to study the great problem of disarmament, a problem which is perhaps even more complex than those that your committees were asked to solve, the Council of the League will be called on to examine the terms of the Protocol

which we are about to adopt. It will have to draw up a list of the forces which each country is prepared to contribute, to study from a technical point of view the possibilities which those forces offer and the circumstances in which they may be employed. It will also have to group there and co-ordinate them. That is a great and extremely complex task.

Not until we know the full conclusions of this work shall we be able to lighten the military burdens of the nations. Then, as to-day, France will be the first to collaborate with you. Our people fervently desire relief from the military burden that oppresses them. They are ready to lighten that burden. As soon as you have given her an assurance of security, France will take her place in the forefront of those countries which are seeking the solution of the great problem of disarmament.

France is honoured in adhering to the Protocol, and for myself, I repeat, the most memorable event in the whole of my political career is that I have come to this platform to bring you my country's adherence to the Protocol and her signature.

LORD PARMOOR,

Lord President of the Council, first Delegate of the British Empire.

Mr. President, it is with great pride and pleasure that I rise to support the resolutions before the Assembly, and which have been referred to in such eloquent terms by M. Briand.

At the outset, let me make this declaration on behalf of my delegation. The British Delegation is prepared unhesitatingly and with all the influence at its command, to recommend to the British Government the acceptance for signature and ratification of the proposed Protocol. In making this statement, I am adopting words which will be found in the resolution to be submitted to the Assembly.

I do not think it is necessary to enter into any detailed discussion of the draft proposals. Everyone who is interested in them

will have studied these proposals, or will have an opportunity of studying them, with the close attention which their momentous character deserves. But, in addition to this, we, who are present to-day, have heard the admirable and exhaustive analyses made by the two Rapporteurs. The remarks, therefore, which I desire to make on this historic occasion will be of a more general character.

First and foremost, I should like to take this opportunity publicly to thank the Chairmen and Rapporteurs of the First and Third Committees for their indefatigable work. I am sure that in saying this I am voicing the sentiments, not only of the British delegation, but of every delegation, since we all desire to pay tribute to their skill and devotion. We may justly congratulate ourselves on the appointment of these delegates to the posts which they have so admirably filled.

We have to bear in mind (I think M. Briand in some sense referred to it) that it is only three weeks — or a day or two more — since the British and French Prime Ministers entrusted to this Assembly of the League the task of drawing up a scheme which would provide a basis for an international conference on arbitration, security and disarmament. The time has been short in which to ensure accuracy and finality but to the best of their powers the Committees have carried out the task placed upon them. Those directly engaged in the work of these two Committees cannot have escaped moments of discouragement and depression. All the greater, therefore, is our satisfaction that the task to which we set our hands is well-nigh finished, and that the proposals before us have been endorsed with the unanimous approval of the members of the First and Third Committees.

The problem before them may be stated in a slightly different way. The Committees had to consider how to frame, within the limitations of the Covenant, a scheme based on the general principle of arbitration, providing at the same time such a full measure of security as to pave the way for that real measure of disarmament which, within the terms of the Covenant, is recognised to be necessary for the maintenance of peace.

By the terms of the Covenant itself, the signatory Powers have accepted the obligation not to resort to war, and I know of no other possible alternative to the horrors of war than the development of a general system of arbitration within the wide meaning, in which that term is used in the Protocol which embodies the proposals before the Assembly.

Arbitration provides for conciliation and justice, and requires patience, moderation and a desire to do right as well as to claim right. It provides a means of righting wrong between nations, without resorting to the greater wrong of warfare. It affords, through conciliation, the means of explaining away misunderstandings. It invites co-operation in the place of controversy and, in its higher forms, under the guidance of an international court, should point the way to the gradual building up of a recognised system of international law. This law should become the common law of nations and provide for the same measure of peace and security amongst the nations as the great systems of common law have provided for peace between individuals of the same nationality, on a basis of an equality which is blind to force, but, on the other hand, which is the foundation of all that is implied in the real and essential idea of justice.

I personally believe that the world is ready and waiting for the establishment of such a system, and that, in so far as any doubt exists, it is as to the extent to which sanctions can be devised which will be adequate to secure obedience to the arbitration principle and to the decisions given by the arbitration court or tribunal.

Thus we come to the great question of security. It is worth while for a few minutes to consider how it is proposed in the Protocol to solve this difficult problem. I am aware that any system of sanctions opens certain avenues of criticism, but we must maintain the right perspective and realise, without any illusion, that, if arbitration is to be maintained as a form of international security, adequate sanctions must be provided, however deeply some of us may feel that these sanctions are only likely to be required in a very small number of cases if they are ever required at all.

Sanctions whether economic, military or naval have inevitably played an important part in the discussions on the Committees. Let me, however, impress upon you at the outset that the basic idea of the sanctions in the Protocol is not how or when to make war, but, on the contrary, how to reduce the chances of war to a minimum and to preserve an assured system of peace settlement. We want sanctions, but we want them to make war impossible, and we resolved to do everything we could to make it impossible.

The first step was to define definitely and clearly the terms "aggressor" or "aggression". The definition adopted is far-reaching and definite, and any State which comes within the definition becomes an outlaw and finds the entire influence of every country raised against it. Sanctions are intended to make hard the path of the evil-doer and to bring home to the whole civilised world that aggressive war is a terrible form of evil-doing.

I am the last person in the world not to give due weight to moral principles or christian ethics. To me they constitute the main foundation of the whole fabric on which the League of Nations has been built up. We have to encourage the growth of a sense of trust and confidence in arbitration which will further assure practical results, and, in the meantime, if the sense of security is to be such that disarmament may become a reality, we must provide a system which adequately appeals to all nations, and which accords with principles long accepted within the domain of arbitration procedure.

Neither the Council nor the Assembly will have any power to interfere in the internal affairs of our respective countries beyond the limits already comprehended in the Covenant; that is to say, not until a stage has been reached which means war, or a threat of war, at which stage a new condition arises and we pass from the sphere of internal questions into the sphere of international law. Let us therefore be quite clear what we are doing. There is no attempt to make the Council or the Assembly of the League into a super-State, with authority over the different

Governments. Any attempt to do this would, in my opinion be to court inevitable failure.

The sovereignty of the various Governments will remain supreme in matters pertaining solely to domestic jurisdiction and such matters should be rigidly excluded from the scope of the present proposals. If the worst happens — and we must face boldly the possibility that it may happen, however improbable it may appear to be — if the economic sanctions are insufficient and sanctions have to be applied by force of arms, the Council of the League will have no executive powers. There will be neither troops nor ships at its disposal. It will be neither an Army Council nor a Board of Admiralty, and its functions will be limited to making recommendations. Every Government, unless it voluntarily undertakes the obligation, will be free to decide, when the time comes, to what extent and in what form it can best co-operate loyally and effectively in support of the Covenant and in the common duty of giving assistance to any victim of aggression.

It would be a misuse of words to say that assistance to the victim of aggression is a form of sanction ; I do not shut, however, my eyes to the fact that, although the motive of action may be assistance to the victim, it may not be possible to give this assistance without creating a state of war as against the aggressor. It must not be forgotten, moreover, that in the event of a question arising under article 7 of the Protocol, as to whether any measure of military, naval, air, industrial or economic mobilisation, or any general action is of a nature likely to extend the dispute or to render it more acute, this question will come before the Council for examination ; it then becomes the duty of the Council to determine whether any particular action which has been taken constitutes an infraction of the undertaking contained in this article.

I do not think there is any risk of interference with the action taken by any Government when such action is directed towards the purposes of the League.

I have spoken clearly and categorically on the above subjects, since statements have been made for which, in my opinion, there is no foundation, and since misapprehension appears to

prevail in certain quarters. It was even said — I think it must have been said ironically — that the head of the British delegation had made an offer of the British Navy to the League of Nations. It is hardly necessary to contradict so absurd a statement ; but it may be well to point out that, under the terms of the present proposals, no such an offer could under any circumstances effectively be made.

Let there be no doubt that we have remained within the limits of the Covenant. Arbitration and sanctions already form the main fabric of the Covenant. Articles 10 to 16 of the Covenant, which it would be out of place to attempt to analyse on this occasion, contain the whole principle of preserving against external aggression the territorial integrity and existing political independence of all Members of the League, whether they be small or great Powers, and the other articles to which reference has been made contain the obligation to submit disputes to arbitration under the provision of the sanctions therein defined.

We are less immediately concerned with disarmament, but it is none the less the aim and object of all the proposals which are now before the Assembly. I have no hope that war will disappear among the organised nations of the world unless we can secure an adequate system of reducing armaments to the level indicated in article 8 of the Covenant. It is our duty to formulate the first step towards the calling of an international conference on disarmament ; but we cannot forget and we must not forget that arbitration, security and disarmament were inseparably connected in the speeches of the two Prime Ministers whose joint inspiration has guided us on our journey. We have joined them in a single chain, of which each link is an indispensable part. They are all three part of one whole, and until the complete chain is forged, we cannot pride ourselves on the accomplishment of our work. It is on this ground that I rejoice that there is no separation of these three inter-linked questions in the proposals which we make. It is expressly provided that until the Disarmament Conference has reached a successful issue, the provisions of the Protocol in regard to arbitration and security remain in abeyance,

which is justified not only by the urgent need of linking up these three great questions but in order that, through their inter-linking, all efforts may be devoted to their common acceptance.

In his speech, before the Third Committee, my distinguished colleague, Mr. Arthur Henderson, warned us that the Protocol was but a step along a difficult and uphill road. Mr. President, the protocol is not only a step, it is the first step, a single step, and, cost what it may, let us determine to take this first step by a unanimous resolution of the Assembly. There is light on the horizon, a hope of at last attaining the real and lasting peace which so many philosophers and jurists have long striven to attain.

We members of this Assembly will advance side by side and shoulder to shoulder, slowly perhaps but steadily, and as we place our foot on the sands of time, let them always point in the direction of the road to disarmament and peace, so that each movement we make shall be in the right direction. In the sunshine of international friendship and conciliation, the difficulties which seem so formidable now and which are presented by our critics as an impossible barrier, will melt away. The spirit which has reigned at Geneva during the debates and discussions of the past month must prevail in the end and the dawn of a new day, the day of peace, will then break upon the troubled world.

Mr. President, through the long retrospect of history, it has been the aim of famous jurists and philosophers to promote peace and to bring to an end the barbarous incidents of warfare. Our thoughts run from the time of Grotius to the efforts made at the conclusion of the Great War, which will ever be connected with the name of Woodrow Wilson. It is for each of us in our generation to take our part loyally and effectively in the forward movement which I believe is about to be initiated in this great Assembly.

I will conclude by reminding you of the parting words of M. Herriot. They were an appeal to us to have faith, or, as he called it, a powerful faith. The Protocol is, evidence which we can give of the faith that is in us, faith in mankind, in the power

of justice, and truth, faith in the destiny of humanity, and in the ultimate triumph of peace and goodwill.

M. SCIALOJA,
Former Minister for Foreign Affairs, delegate of Italy.

Mr. President, ladies and gentlemen—the Italian delegation wishes above all to thank our distinguished Rapporteurs and the two Committees to whose work we owe the draft Protocol now under discussion. We have assisted to the utmost of our ability in the work of these Committees.

For the first time in history we have endeavoured to solve the problem of substituting the processes of law for recourse to war, to which has hitherto been recognised as the final means of settling a dispute between States. A great step has thus been taken on a new road.

It cannot be anything more than a step, because we have had to carve our way through great difficulties. The most serious difficulty arose from the fact that it is essential that each State should preserve its own sovereignty intact.

These difficulties have been overcome by founding a new system of justice on the juridical relations of the international community i. e., by forming inter-State organs for judicial or arbitral decisions without, however, endowing such organs with powers overriding the sovereignty of the States themselves. As a result of this satisfactory solution, the sanctions provided for the enforcement of awards can have no other foundation than that convention which is binding on all States and which has been set up by them of their own free will.

It is for these reasons that, after considering the very interesting projects examined by previous Assemblée, you have decided to rest content, in principle, with the system of sanctions provided by the Covenant, and at the same time to improve it in detail so as to ensure its prompt and unfailing application.

This was the only practicable solution in view of the stage in historical evolution that we have reached to-day. Any attempt to interfere with the course of historical evolution, either to hasten or retard it, will be doomed to failure. At any given period in history it is impossible to achieve more than the spirit of the age is prepared to accept.

We have, therefore, created a system based on the application of law as it is understood to-day. This system is, we hope, capable both of eliminating all controversies of a judicial nature and of maintaining the situation created after the last war, as well as the principles according to which the questions arising from this situation have been settled.

In reaching this result, limited as it may be to the elimination of these two classes of disputes, we may none the less taken a considerable step forward in the development of the principles embodied in the Covenant.

If the League of Nations accepts this Protocol it will mean that a great improvement has been introduced in the Covenant itself. We have reason, therefore, to congratulate ourselves on reaching such a result, and as representative of Italy I think I am entitled to express my special satisfaction. The principle of compulsory arbitration has long been advocated in Italy, as our delegate, M. Salandra, had the honour to remind this Assembly on September 5th, and as is shown, too, by the number of arbitration treaties concluded between Italy and other Powers from 1903 down to the most recent, which has just been concluded, without any restriction, with Switzerland.

However great the progress we have made, we must not claim to have found a remedy for all possible conflicts ; if we did, we should dangerously mislead the world.

Just as the physician must not merely treat the symptoms of a disease, but must seek the underlying causes, so in international relations we must endeavour to realise the great causes of unrest that have at all times influenced the life of nations.

History has at all times been a more powerful force than actual

law. Social and economic necessities are just as unescapable as physical necessities.

If we really desire universal peace, we must prevent conflicts from arising by endeavouring to stem the currents that lie beneath the surface of movements which convulse mankind.

This is a new task which the League must undertake in concordance with the fundamental rules of the Covenant. The Covenant contains several provisions which are closely bound up with the idea of international solidarity.

Our Protocol makes this solidarity a living thing by providing for common defence in case of aggression. But co-operation between States should not be confined to a assistance at the moment when the conflict becomes acute and violence is about to be let loose. It should be employed in time of peace to safeguard international life. By forming themselves into a League, the nations of the world recognise their duty to respect certain higher interests. The progress of civilisation is becoming an ever-greater factor in determining the nature and extent of those interests, and will eventually give them legal form and precision.

The spirit of brotherhood that is the soul of every community will inspire us in the work which lies before us — the work of preventing disastrous conflicts. Our task certainly presents difficulties which might at first sight be thought insurmountable, but in spite of this—perhaps, indeed, because of it—the duty of the League of Nations is to devote all its future attention and energies to this task.

Our Protocol should not, however, be criticised because it does not immediately provide a solution for these serious problems. We should rather place this to its credit, because it cannot and should not undertake anything that is not immediately practicable.

Some will accuse us of going too slowly ; others will probably blame us for attempting to go too fast. I was one of the authors of the Covenant and perhaps my share in it obscures my view of the matter, but I think if we have erred our sins are rather sins

of commission than of omission. We began by erecting our building on a legal basis without the solidity which experience alone could give, but we could not allow ourselves to be deterred from taking action by the fear of making mistakes.

Experience will come with time. We must trust to the wisdom of the Council and of the arbitrators and in the instinct of public opinion, which should draw strength from our achievement, to remedy the defects in our structure.

The Covenant, which is and must be the foundation of the Protocol, contains provisions which by themselves are not directly applicable, but which point out the path we must follow. We must trace and build well the road that leads to the realisation of our ideal.

The ideal of peace is not new, through centuries of blood and tears humanity has looked upon peace as the supreme happiness. It is taught by philosophy and preached by religion. The one need has always been a practical organisation for attaining the ideal. To-day, we are striving to establish that organisation. If the facts show that we have succeeded, we may rest conscious that we have devoted our lives to what is best and sublimest in human nature.

M. QUINONES DE LEON,
Ambassador in Paris and first delegate of Spain.

Mr. President, ladies and gentlemen—I wish to express both on my own behalf and on behalf of the Spanish delegation my warm and sincere appreciation of the work which has been laid before the Assembly by the distinguished Rapporteurs of the First and Third Committees, M. Politis and M. Benes.

The Spanish Delegation, acting on the instructions of its Government has taken part with the keenest interest in the work of the two Committees ; thanks to that work we have achieved, in the draft Protocol which is now before us, a very definite advance.

I venture to hope that the system which we now see in process of creation, and which forms a well-nigh perfect whole, will be inaugurated as soon as possible. A careful examination had shown that the Covenant contained certain omissions which have now been made good without any departure from its fundamental principles.

It is true that several provisions of the Protocol involve amendments to the Covenant, but the spirit of the Covenant, in which, as we have already had occasion to state, the Spanish Government places implicit trust, is fully observed. Experience may show that this system is still capable of improvement ; but such improvements cannot be more than matters of detail, and we may safely leave this task to future Assemblies.

The Fifth Assembly may well be proud of its achievement ; it will do honour to all of us who have had a share in it.

Compulsory arbitration, that splendid principle to which Spain has more than once manifested her attachment, will soon be an accomplished fact. We trust that the number of reservations will be trifling and that the Governments will not disappoint the high hopes which have been aroused.

I do not propose to go into the problems which have been so satisfactorily solved by the draft Protocol. You are all familiar with them — the definition of an aggressor ; the question of separate agreements, that has been settled in a way which I hope will dispel my Government's misgivings on this point ; even the question of the domestic jurisdiction of States and many other problems of equal importance. For all these difficulties adequate formulas have been found.

The Spanish delegation, which has given its approval to the draft Protocol and to the draft resolutions, has already made urgent representations to its Government to give very careful consideration to the acceptance of this new instrument of peace. It hopes that in the near future the countries represented here will have given this Protocol and these resolutions the welcome which they deserve.

M. PAUL HYMANS,
Minister for Foreign Affairs and first delegate of Belgium.

Mr. President, ladies and gentlemen—It is not without some apprehension that I venture to address you to-day. I do not wish to weary you or to reiterate trite and useless platitudes. Nevertheless, as representative of Belgium, I felt that it was perhaps my duty to speak.

Belgium has reconstructed her material and financial position. She has provided for the exigencies of the moment. In order to pursue her normal development she has need of peace, justice and security. She offers you these gifts and she is ready to help you to secure them for all.

On behalf of the Belgian delegation, therefore, I gave my full support to the resolutions before you.

I would like, however, to explain briefly what is implied in our support and to try to express an objective opinion on certain aspects of the present problem. I may perhaps claim to be qualified to do so as I have followed with close attention, and sometimes with emotion, the discussions of your Committees and the result of their work, although I took no direct part therein. I have therefore not been influenced by that kind of personal interest and *esprit de corps* which is born of close and continuous co-operation in a special task.

Never can an Assembly like ours, which only sits for a few brief weeks, have been assigned so formidable a task as that which was laid upon us at the beginning of this session in the remarkable speeches by the heads of two of the greatest Powers in Europe.

What was expected of us? The London agreements had relaxed the sense of tension and cleared the atmosphere. They had shown the way to a calmer, serener clime. Mr. Ramsay MacDonald and M. Herriot considered that the time was ripe to go further and to make a decisive effort to draw up the rules of international life and to banish violence from the world.

In response to their appeal the Committees have achieved a great work, and, when we read the momentous, lucid and incisive reports of M. Politis and M. Benes, we realise the intensity of their work and the difficulties which they have succeeded in surmounting, often only by dint of the greatest ingenuity. It is impossible not to admire the grand proportions of their edifice and the care which has been displayed in providing for every emergency and in guarding against every danger.

But we must be careful, I think, not to misuse certain words. It has been said, not on this platform, but sometimes in the Committees, and it has been stated elsewhere in print, that we have killed war. This we cannot say, for to kill war we must destroy the inherited instincts of violence, rapine, greed and envy in the depths of men's souls. We must inaugurate an era of universal virtue. But what we can say is that we have blocked up all the avenues through which war can burst in upon the world.

I should now like to glance rapidly at the entrenchments and lines of defence which we have constructed against war. The first of these lines of defence is the pronouncement that war is forbidden except in self-defence. Next come the measures referring to threats of war and preparations for war and the measures designed to arrest hostilities at the outset of a conflict.

I would like to survey briefly the two main innovations of the draft. It lays down the principle that all disputes must be settled in a sovereign and final manner. Although this principle has been emphasised by all the previous speakers, you must excuse me if I refer to it again. We cannot dwell too insistently on great and noble ideals, for our words are not addressed only to this Assembly, but to the peoples whom we represent and to public opinion in general.

It is a memorable fact that this principle has been adopted as the keystone of our plan on the morrow of a war that convulsed mankind. To-day all the nations assembled here are prepared to declare that they repudiate force, that they intend to substitute justice for violence and that no people will henceforth be allowed, any more than "a private" individual is allowed, to take the law

into its own hands or to decide the limits to its rights without regard for others.

It is a fact of the greatest significance in history that the Powers having force at their command solemnly declare before us here that they forbear to use it. This constitutes a complete revolution in international morality. In this manner public opinion will, by degrees, become accustomed to pacific methods of procedure and an atmosphere of confidence and peace will spring up among the peoples.

The second innovation which I welcome and which seems to me the boldest, the most ingenious, and perhaps the most interesting, is the definition, the automatic determination, as it were, of the aggressor ; I refer to the declaration of aggression, which is a new term in international law. Henceforth there can be no hesitation, no quibbling, no diplomatic controversies since aggression is determined by definite and patent facts or by a presumption *juris et de jure*, which can only be set aside by an unanimous decision of the Council.

I have the more satisfaction in recording this great advance, inasmuch as it dispels the misgivings felt by my Government when considering the former Treaty of Mutual Assistance, owing to the lack of a precise definition of aggression.

The machinery which is now being created is endowed with all the necessary speed and effectiveness. To realise the importance of the declaration of aggression, we must imagine the effect, the sensation it would make. Imagine war to have broken out, and then think of the effect of this solemn proclamation by the Council, the organ of the international community, this proclamation to the whole world that a State has violated its pledges and broken its word. Think of the sensation which such a condemnation would cause !

A State contemplating war would see itself arraigned before the conscience of mankind. And do not forget, gentlemen, how powerful moral forces are. In the very country in which preparations are being organised for war, the germs of internal dissension will arise. Men will call their Government to account, and the Government will find it impossible to constitute that moral

front and national unity, to arouse that enthusiasm of heart and mind by which alone a nation can be launched upon a military adventure or asked to make the supreme sacrifice.

I now come to the sanctions. Here, again, there has unquestionably been great progress. There are sanctions in the Covenant, but these have been defined, and it has been decided that they will come into force immediately on the declaration of aggression. All Members of the League are obliged, according to the terms used in the Protocol, "to co-operate loyally and effectively" in these sanctions. All will be bound to lend each other support and to provide each other with raw materials, credits and transport facilities. The great Powers will assume the obligation of safeguarding the freedom of communications and the security of the highways of the seas. In order to perfect this assistance, the Council is enjoined to take the necessary steps to draw up plans of economic and financial co-operation so that the wheels of the machinery may be set in motion at the first signal.

In an age when commercial interests have woven innumerable bonds between nations, there can be no question but that economic sanctions applied loyally, rigorously and immediately would have a decisive effect. In the sphere of military sanctions the attempt has also been made to concert a definite plan, but, it must be confessed, without as much success as might have been hoped, out of deference for the sovereignty of States. The legal obligation, it is true, is enunciated in clear terms, but, if I may be allowed the expression, it remains indeterminate in substance and scope. Uncertainty, again, unfortunately subsists in regard to the forces which the Members of the League will consent to place at the Council's disposal and contribute to the common task of defence and repression. This is a weak point; but it is, I think, only sincere and politically wise to recognise it. The only remedy is the force of public opinion, the progress of the idea of solidarity and the willingness of the peoples to accept the sacrifices required in the common weal.

That, gentlemen, is our task. Here is a work of propaganda and education to which we must devote all our energies. Let us

make no mistake, it will take time to instil into the public conscience that sense of the international community which tends to unite the weak and to lead the strong to succour them.

I wish now to dwell on two points which seem to me to constitute positive and practical improvements and to offer reliable guarantees.

The first is the creation of demilitarised zones and the right to place them under the control of the League. Think what these demilitarised zones mean. They will be islands of peace. Among the inhabitants of these regions will spring up a natural and instinctive resistance—selfish perhaps, but salutary, — to every attempt at violence that might threaten them with ruin and devastation.

The second idea is that of regional agreements, which embody the principle of mutual assistance in a restricted but extremely practical form. These agreements will allow adjacent or neighbouring States to decide beforehand the military assistance they will furnish each other in the event of an act of aggression being declared in conformity with the Protocol. In my opinion these regional agreements placed under the control of the League, and forming part of the machinery of our international confraternity constitute a most effective and practical instrument of protection and security.

I now reach my conclusion. In my view there are two errors which we must avoid in regard to the public opinion. It would be most dangerous to mislead the public.

One of these errors would be to regard the work which has been accomplished here merely as the creation of lawyers and theorists, the erection of a magnificent edifice of formulas and principles.

The other error would be to give public opinion the false impression that the problem of security had been definitely solved.

The truth is that skill and conscience have achieved a mighty task ; we have organised a whole system of measures of prevention, defence and repression, of guarantees, checks and sanctions from which war must it would seem, shrink back or break itself in vain.

We cannot of course but wonder whether in ^{any} one of the great crises which sometimes convulse humanity, the complicated and scientifically elaborate procedure which we have set up and the precise and delicate mechanism which we are constructing will be able to withstand a violent shock.

On the other hand, it is perhaps not fully realised what an enormous risk would be incurred by a State thirsting for adventure, if it allowed itself to become dragged in to war and entered upon a career of conquest and depredation. Will it not be deterred by the fear of incurring the sanctions which we have established, those formidable economic sanctions which can wreck its commerce and its credit, and by the danger of rousing against it the moral coalition to which I referred just now, and perhaps a vast military alliance? I think that these considerations would deter it in the same way as the fear of shame and punishment deters the individual from crime.

That is what we hope. That is what we are entitled to believe. That is what is humanly possible.

I have now one regret. We have fixed the principles and settled the procedure of our regime, but the regime itself is to remain in abeyance. Its application is subject to the adoption of a plan of disarmament to be drawn up by a conference at a more or less near date.

I confess — and you will pardon me if I speak quite frankly — that to my mind it would have been better that the system of arbitration and sanctions which two Committees have so admirably devised, and which is complete in itself, should be put into force, if not immediately, in the very near future. I am convinced that the immediate or almost immediate application of this system would have created an atmosphere of peace and would have given the world a feeling of confidence and security; and after all it is only the feeling of security which can induce States to renounce in some degree the material and military guarantees which they have hitherto found necessary.

We must not, moreover, be blind to the many difficulties that we shall encounter in drawing up the programme for the Dis-

armament Conference which has been announced, or in reaching an agreement which will assign to each State its legitimate allowance of troops and material on the basis of its political situation, its geographical position, the development of its industries and its economic conditions.

After the great task which we have just achieved we find — as always happens in this life — a fresh problem confronting us, perhaps even more difficult and more complex than those we have already tried to solve. Our success in dealing with this problem will largely depend on public opinion and on the general political situation in Europe.

I say this because I think it my duty—a duty which, to my mind, we owe not only to the Assembly but also to our countries and to public opinion — to say sincerely what we think and what we can legitimately expect, conscious as we are that we have done our best.

We have undertaken a gigantic task! I am sometimes really amazed at the audacity we have displayed. We have undertaken to build a lasting peace on the foundation of this old world still shaking from the convulsions of the war, a world that rings with the clash of conflicting interests, traditions and memories. We have striven — and I think we have achieved a great work — in good faith, with good-will and in a spirit of enthusiastic co-operation. We have gone forward ; we have covered much ground ; the system we have organised has been brought to the highest possible degree of legal and technical perfection.

Nevertheless, as M. Politis and M. Benes pointed out this morning, we feel that we are not yet at the end. Law and jurisprudence must be completed and defined and, above all, the psychology of mankind must be adapted to a new regime. A new mentality must be created, and—this is one of the reasons for which I am of good hope— this new mentality does, I think, already exist.

We see it all around us ; it is as yet but in the bud, but it will grow, and it is our duty to train and fashion it at home, in our press, and in our public meetings so that we may save humanity from terrible catastrophes which might end in the destruction of civilisation itself.

Our work is not yet finished. We must pursue it. We must seek added moral strength in ourselves and in the conscience of mankind and we must steadfastly believe that we are capable of doing the work that it is our duty to accomplish.

M. ENCKELL,
Former Minister for Foreign Affairs, delegate of Finland.

Mr. President, ladies and gentlemen. — The Finnish delegation views with profound satisfaction the admirable work achieved by the Committees of the fifth Assembly.

The acceptance by the representatives of both large and small countries of the principle of compulsory arbitration for the pacific settlement of international disputes and the adoption of a system of security unquestionably constitute great triumph for the League of Nations and indeed, for all mankind.

Owing to her geographical situation, Finland has for centuries been the theatre East and West of sanguinary conflicts between in the extreme North of Europe. She acquired political freedom only a short time before the foundation of the League. Since she has been a Member of the League she has ever regarded the Covenant as the charter which guarantees her territorial integrity and her political independence. For this reason public opinion in Finland felt some misgiving over the tendency shown by the earlier Assemblies to interpret some of the principal articles of the Covenant in a way which she felt was not altogether in keeping with the fundamental principles of the League. There seemed to be a desire to reduce the responsibilities involved by international co-operation, which Finland wished to strengthen. The chief instruction given each year by the Finnish Government to its delegation was to support the adoption of any measure which would consolidate the League and make it a universal body.

As will be readily understood, therefore, public opinion in Finland experienced a sense of disappointment at the efforts of the fourth

Assembly to give article 10 of the Covenant an interpretation which was completely at variance with its real meaning ; at the adoption by the second Assembly of a clause restricting the obligations contained in article 16 and at the great caution and hesitation shown by the Council in applying article 17. When the fourth Assembly drew up the draft Treaty of Mutual Assistance the Finnish Government, despite certain criticisms on points of detail was the first to notify its adherence to the scheme.

In view of the facts which I have just mentioned, you will see that the Finnish delegation has every reason to feel profound satisfaction at the unanimous agreement reached by the fifth Assembly in regard to the draft Protocol before us.

The Protocol is founded on principles and ideas which we have consistently supported. It fortifies international co-operation, it consolidates the position of the League, and it consecrates the triumph of the lofty principles enunciated by the authors of the Covenant.

We frankly admit that we would have been still better satisfied if some of the rules established in the Protocol had been slightly modified. In particular, we should have preferred article 10 to have been left as it stood without the amendment which was inserted at the eleventh hour.

There can be no question of the necessity of a supreme judicature, which, if surrounded by adequate guarantees, would answer great and vital needs, but we believe that, as at present worded, article 10 affords an aggressor State the opportunity of evading the immediate consequences of presumption of aggression. even if it acts at variance with the known opinion of the Council or of the Assembly.

It is our firm hope, however, that the important agreement now reached will be completed and perfected in the near future by the extension of the principles governing the Protocol ; and we are fully convinced that this agreement brings us nearer to our common ideal, for it strengthens that feeling of responsibility which each of us must be ready to bear in the general interest. The Finnish delegation will, therefore, gladly recommend its Government to sign and ratify the Protocol.

VISCOUNT ISHII,
Ambassador to France, first delegate of Japan.

Mr. President, ladies and gentlemen — For a month past the Japanese delegation has co-operated with you loyally and sincerely in preparing the Protocol of Arbitration, Security and Disarmament. The task which we have undertaken is undoubtedly one of unparalleled importance. We have therefore stated our point of view with a complete frankness which at times has unavoidably given rise to somewhat critical discussions, but we have been inspired throughout by a spirit of conciliation and a sincere desire for agreement. The only point which we were anxious to press was a purely legal one, and in so doing we were inspired solely by a genuine desire to arrive at a logical and consistent result.

In a problem so complex and difficult nothing but the sincerest candour and goodwill can lead to final and lasting success.

Thanks to the splendid efforts of all concerned we have succeeded in laying the foundations of our great project for the pacification of the world by arbitration and security and for the liberation of mankind from the heavy burden of armaments.

We also congratulate ourselves on the judicious manner in which the First and Third Committees have worded the draft resolution. It is so formulated that all the delegations can accept it unreservedly and it therefore represents a great advance on the road towards general agreement.

The Japanese delegation has great satisfaction in declaring that it is prepared to give its full approval to the draft resolution.

Dr. LANGE,
Substitute delegate of Norway.

Mr. President, ladies and gentlemen — I desire to express on behalf of the Norwegian delegation our great satisfaction with the work which has been accomplished by the First and Third Com-

mittees. Norway was one of the first countries to adhere to article 36 of the Statute of the Permanent Court of International Justice which establishes compulsory arbitration for the settlement of legal disputes. We are overjoyed at the prospect of seeing all the Powers, great and small, adhere to this clause and accept the obligation settling by judicial and arbitral means all disputes, of whatever nature which may arise between them.

Need I say, ladies and gentlemen, that our joy is even greater at the prospect of a real reduction of armaments. We recognise the necessity of developing the system of sanctions, in the application of which we wish to co-operate loyally and effectively, as the Protocol puts it, in the degree which our special situation allows.

The Norwegian delegation will therefore vote for the resolution and for the recommendation of the Protocol, but I wish it to be quite clearly understood that I am only speaking on behalf of my delegation, since for various reasons we have not been able to consult our Government as much as we should have liked.

We make this statement on the understanding that the Protocol will not come into force until the plan for the reduction of armaments has been adopted. We therefore earnestly hope that the Disarmament Conference will attain complete success. The preparation for this Conference and its programme of work must now become the League's principal task, and we are glad to see that a resolution has been submitted to the Assembly regarding the summoning of the Conference and enumerating the different points which it will have to consider.

The reduction of armaments has been the primary objective of the League since its foundation. Moreover, it is the fundamental condition for bringing into full operation the system provided for in the Covenant and in the Protocol.

We must bring about a large reduction of armaments, and thereby remove any temptation to the stronger nations to abuse their strength. M. Hymans very rightly dwelt this afternoon on the complexity and difficulty of the task which the Disarmament

Conference will have to face. It is none the less essential that this Conference should succeed in its task, and the reward will be the application of a complete system of arbitration followed by a feeling of enhanced security.

It is proverbially difficult to make a start. I think we may claim, however, that the League has passed through the initial stage, though—to vary the proverb—transition is difficult too.

It requires a great effort of constructive imagination to visualise a state of things in which States will be disarmed and will live side by side peacefully pursuing their avocations under the aegis of the League.

The system of defensive armaments is so deeply rooted in the history and inner consciousness of nations that the eradication of that system will take time and long and persistent effort. During the period of transition there must necessarily be frequent hesitation, frequent clashes between the old order and the new. We must trust that mutual good-will and the vivid memories of the sufferings and horrors of war, which were so eloquently described by M. Briand this afternoon, will help to make the great work of the conference a success.

The Protocol we are considering is not an end in itself ; it is rather a means to an end. It is a milestone on the League's road to success. New problems will arise with which it will have to deal ; and, speaking not from a purely national, still less from an egoistic standpoint, but from the standpoint of the League itself, I say that the first task which will have to be undertaken after the Conference has successfully completed its work will be to develop what I may call the legislative functions of the Assembly. We view with the greatest satisfaction the step taken by the Swedish delegation in laying before the Assembly a programme for the codification of international law, to be carried out with the approval of the various Governments. But we must certainly go further than this.

I cannot attempt to compete with the distinguished Rapporteur of the First Committee, M. Politis, who, with such admirable precision and moderation, defined this morning the tasks which

we must take in hand in order to adapt the life of the international community to the principles of justice and to the social needs which dominate international society like any other society.

I will confine myself to making the following statement. If we are to bring the common life of countries and peoples more and more into line with the eternal principles of justice, we must deal in time with situations might one day become acute. The consuls of the League of Nations like those of ancient Rome, must be warned to watch over the public safety — *caveant consules*. Two miles above Niagara it is possible to land, but if you wait until you are 100 feet from the falls, you are inevitably lost.

We must therefore enlist the co-operation and good-will of all to bring this great work to a successful conclusion.

Implicit in the Protocol is a recommendation that the nations which are outside the League should bring their assistance to the Disarmament Conference.

That wish has often been voiced on this platform and I should like, in conclusion, to express once more the hope that the League will as soon as possible become world-wide. It must become universal or perish.

M. DE VASCONCELLOS,

Former Minister for Foreign Affairs, delegate of Portugal.

Mr. President, ladies and gentlemen — I do not know whether the document now submitted to the Fifth Assembly of the League is destined to govern the relations between human communities for long or even for all time. But whether our edifice is built upon rock or upon sand we all owe a great debt of gratitude to those who have made the building of it possible, and I thank them on behalf of the country which I have the honour to represent.

You may certainly count upon Portugal's acceptance of the lofty principles embodied in this document ; she has complete faith that the vision of peace and security which it opens up before us will be realised.

Under this document we are all pledged to aid each other, but its best and most splendid feature is that the great nations, are to undertake solemn engagements towards the small.

M. Herriot said in this Assembly : " A great nation can, if need be, protect itself unaided, a small nation cannot " ; and Mr. Ramsay MacDonald said : " The certain victim of a military age and the military organisation of society is the small nation, which depends upon its moral claims in order to live " .

Thus for the first time responsible statesmen, the leaders of great nations, have publicly proclaimed the right of small nations to live secure from force and violence. For the first time they have pledged themselves to protect the freedom of the small nations and have offered the sources of their power to guarantee their security.

The peace of the world depends above all on the Great Powers. When once they have taken a firm resolve to prevent a breach of the peace — and the dawn of that day is at hand — peace will reign on earth, and never again will the doctrine of force become a factor in international affairs.

Our acceptance, as I have said, is certain. We have two draft resolutions before us. You have heard our opinion as to the first. As regards the second, I need only remind you that Portugal was among the first to sign the Protocol to which we are recommended to adhere.

The League has just taken a great step towards the goal fixed by its founders. We cannot believe that it will ever look back.

After this memorable debate, after carefully examining the work which has been fashioned by the artisans of peace, we cannot believe but that the rubicon has been crossed. Our agreement is too complete for it to be otherwise.

The League of Nations was created to save the peace of the world and we are convinced that it will succeed. Portugal brings in support of this glorious enterprise her profound faith in the triumph of the ideals of justice, of which the League of Nations is the advocate and champion.

M. KUMANOUDI,
Delegate of the Kingdom of the Serbs, Croats and Slovenes.

Mr. President, ladies and gentlemen — The delegation of the Kingdom of the Serbs, Croats and Slovenes has already had the honour to inform the Assembly that our country will collaborate wholeheartedly in the great work of peace which is to be inaugurated by the Protocol.

I wish to express the profound admiration of our Government for the distinguished French and British Prime Ministers who, with their high ideals and fertile minds, proposed the construction of this great edifice for the welfare of the international community. I also wish to pay a sincere tribute to the Rapporteurs, M. Politis and M. Benes, who, by dint of their unremitting efforts and resourcefulness, have brought to a successful conclusion the most complex work the League has ever accomplished and have found practical legal solutions to reconcile views which at the outset were entirely opposed.

We give our full adhesion to the fundamental principle of the Protocol. Arbitration, security and disarmament form an indivisible trinity. If peace is to become a living reality, no longer haunted by the grim spectre of death and devastation, the first step must be taken to set up an organisation capable of settling all international disputes by just and peaceful means, and of enforcing the execution of judicial or arbitral awards. Moreover, the aggressor must be persuaded, that his criminal attempt is inevitably doomed to failure by the application of sanctions defined in detail in advance. When the Members of the League are called upon to apply these sanctions they will have to face the highest and noblest test to which the honour of a civilised nation can be put, for they will then be called to fulfil the obligations contained in article 8 of the Covenant.

The Protocol provides the foundations for this new organisation, and offers firm guarantees for the peace of the world. In

this connection there may arise a question which, though purely juridical, is nevertheless of great importance. It is an open question whether the Members of the League of Nations can, by means of a protocol, conclude with one another agreements which modify the Covenant even provisionally. It is conceivable, through it would be highly regrettable, — that if — as I hope will not be the case — a number of States were to fail to ratify it, the Protocol itself may become a partial agreement. Again, the Protocol is wider in its application than the Covenant, since it will at once be open to States non-Members of the League. And lastly, it may be objected that to modify in this way the Covenant, which is the social contract, the fundamental charter of the world, is to exceed the constitutional powers of the League.

Yet, in our opinion, the path which we are entering by means of the Protocol is the only path. The Protocol is an international treaty *sui generis* and must be so regarded, for it is subject to a suspensive condition, namely, the adoption by the Conference of a plan for the reduction of armaments. This condition, moreover, involves to some extent a potentative condition. Furthermore, the Protocol is subject to a resolutive condition in the form of a declaration on the part of the Council that the scheme has not been executed.

It would be difficult in practice to imagine amendments to the Covenant subject to suspensive or resolutive conditions.

The important point is that all the States, whether Members of the League or not should give their adhesion to this Protocol as it stands. When once all the required conditions are fulfilled, this will ensure it the necessary vital force.

If, while approving the great work embodied in the Protocol, I venture to offer a few suggestions, I do so in the firm hope that the future development of international law will make it possible gradually to adopt them.

All wars of aggression, as a legal means of imposing the will of any one State or any group of States, are prohibited within the international community. On the other hand, the defence of national territory and political independence is the primary and

sacred duty of every nation. A nation which does not defend itself when attacked is not a nation.

I am sure, you all share my regret that it is not possible in the present state of international law entirely to prohibit the use of force in international relations.

The Protocol gives the Permanent Court of International Justice compulsory jurisdiction in disputes of a purely juridical character. It is to be feared that reservations may be made which may diminish the value of this clause. In all probability these reservations will be so varied that it will be advisable to have a register which will be kept up to date and will be readily accessible to all States, on the model of the schedule provided for by the second Peace Conference at The Hague.

One of the chief merits of the Protocol is, as the distinguished Rapporteur, M. Benes, has said, that it has completely closed up the breaches in the wall already erected by the Covenant to protect the peace of the world. Every dispute can and must be settled by peaceful means. The three exceptions to this rule which were pointed out in M. Politis' report are fully justified. I note, in particular, the third class of disputes, to which the new system of pacific procedure cannot apply. They are, according to the report, disputes which aim at revising treaties and international acts in force, or seek to jeopardise the existing territorial integrity of the signatory States. It is one of the greatest services to the cause of peace to proclaim the inviolability of peace treaties which created national States after the Great War and enabled them to realise their age-long aspirations.

The definition of the aggressor in the Protocol is a most ingenious one. I feel bound, however, to point out that the presumption of aggression is not automatic in all cases. I need only mention that the question whether an award has or has not been executed may give rise to great difficulties. Moreover, the presumption of aggression is itself based upon a supposition. To place in the hands of the Council the final decision in regard to war is to confer on it sovereign power. In so doing the States have surrendered to the Council one of the most essential feature of sovereignty.

It has sometimes been asked why, when there is presumption, the responsibility for aggression is determined by the facts alone without any necessity for a decision on the part of the Council, whereas, in law, facts are only considered in relation to legal measures, and this relation must therefore be established by a competent authority. The inconsistency is only apparent. It is true that the Council's injunction to the Members of the League to apply sanctions is an executive measure, but the facts must be put in the form of premises accompanied by reasons.

The question of economic and financial sanctions has, in our opinion, been settled on sound lines. These penalties are laid down in advance, and will be put into force without delay. Moreover, they are accepted by all the Members of the League.

Generally speaking, the effects of military sanctions are left somewhat vague and uncertain. Several Members stated that they could not undertake to apply them. Others, while recognising the obligation in principle, wished to remain sole judges of the extent to which they would apply such sanctions. Before gauging their practical effect, we must see what is the outcome of the undertakings which the various States enter into in advance as regards the forces they could contribute in case of conflict. If such forces were inadequate, the League would be obliged to settle the question on a different basis, and a fresh combination would have to be found. Should the forces offered not give the requisite security, it would be impossible to reduce armaments to the extent desired.

Fortunately the Protocol has left in force the partial agreements, which will unquestionably come into operation and which might advantageously make good any possible deficiency in the general undertakings.

Under the Protocol, the punishment of the aggressor is extremely mild. A State whose finances are in an unsound condition, for example, might enter into a war of aggression without incurring any economic liability. The risks it ran might be negligible. Moreover, the aggressor might in any case remain a Member of the League and even of the Council. Under the

Protocol, the aggressor State enjoys the guarantee of territorial integrity and political independence which, under article 10 of the Covenant, should only be given to the State attacked, the victim of aggression.

In our opinion, only a State which has fulfilled its obligations towards the League should enjoy this privilege.

All these provisions, constituting as they do a guarantee of which the aggressor is assured in advance, might easily, we fear, actually encourage aggression.

Despite all these criticisms, besides other faults inherent in all the works of man, we hail with enthusiasm this great advance along the path which is to lead humanity towards a happy future of fruitful work in an era of security and peace.

Small as is our country's place in the commonwealth of nations, we will, I am proud to say, do all in our power to help forward this work for the betterment of the world. We therefore declare that we adhere to the Protocol, which we shall sign with a firm and sincere resolve to put it into execution.

M. ZAHLE,

*Envoy Extraordinary and Minister Plenipotentiary at Berlin,
first delegate of Denmark.*

Mr. President, ladies and gentlemen — All those who took part in the previous sessions of the Assembly must surely feel that this year there is a new atmosphere abroad. The confidence with which the peoples of the world hailed the foundation of the League five years ago seemed to have been shaken during the difficult years which followed the Peace, when the spirit of war seemed to be still alive and a feeling of insecurity paralysed every effort.

This year we have witnessed a profound change in the European situation, a change full of hope for the future. We all applauded the Prime Ministers of France and Great Britain, who came to this Assembly to prochain a new international policy, which,

indeed, was not out of keeping with the national traditions of these two great countries, but yet gave expression to the new spirit which has appeared in international relations.

The outcome of this new spirit is the draft Protocol, the signature of which we are about to recommend to our Governments. This result is due, not only to the devoted work done by all the members of the two Committees, but more especially to the brilliant intellect and lucid thought of the two Rapporteurs, whose names will ever be written large in the annals of the mankind.

The Danish Government feels deep satisfaction at the great advance that has been made by the recognition of the principle of compulsory arbitration, which will be put into application as soon as the Protocol comes into force.

For a long time past Denmark has ardently advocated compulsory arbitration. We have applied this system in all arbitration treaties which we have concluded, even on vital questions, whenever we have obtained the consent of the other party thereto. We have adhered to article 36 of the Statute of the Permanent Court of International Justice. Ever since the first Assembly we and the other Scandinavian countries have proposed that the Covenant should be amended with a view to the extension of the principle of arbitration.

We also recognise the desirability of embodying in the Protocol definite provisions for the application of the sanctions contemplated in the Covenant, the object of this measure being to create that feeling of security on which the success of our efforts to carry out the reduction of armaments promised in the Covenant unquestionably depends.

In the discussion of the Third Committee, we explained how we interpreted the stipulations of these articles. We are glad to note that there is general agreement on the principle that, as regards military sanctions of all kinds, the wide differences which exist in the geographical situation and the armaments of the various countries must in all cases be taken into account.

We are glad that, notwithstanding the divergences of opinion expressed during the debates, the First and Third Committees

have succeeded in establishing a satisfactory basis for the forthcoming discussion on disarmament.

The Danish Government notes, too, with keen satisfaction that, owing to the linking together of arbitration, security and disarmament, it has been possible to appoint a reasonably early date for the international conference which will have the duty of making disarmament a living fact.

In the past, discussions on the reduction of armaments have failed to come to grips with realities. No one dared approach this thorny problem as long as relations between the countries of Europe continued strained. We are now assured that a genuine effort will be made to settle this problem—which is of vital importance. Everyone is agreed — and the Protocol says so explicitly — that if this attempt fails, the whole system which we have elaborated this year will collapse.

The Danish Government believes that the greater the progress we make in disarmament, the more solid will become the edifice of which this Assembly has laid the foundation by working out the draft which we are now discussing. If the Disarmament Conference should only succeed in effecting a perfunctory or trifling reduction of the present armaments, there would still be some communities in which the military spirit would be very different from that spirit of peace and conciliation which has inspired the work of the present Assembly. The authority of the law and the authority of the League will not be assured until the formidable machinery of war and destruction, which is the legacy of the era of the great wars, is reduced to a small force designed solely to maintain order and assure respect for international undertakings.

We are not deceived into supposing that next year's Conference will attain this result at the first attempt. We hope, however, that it will not be content to accept trifling reductions which will leave the present system intact. We trust that it will at least evolve some scheme of progressive reduction, and that, even if this reduction is only effected slowly throughout the subsequent years, it will be continued until a really substantial result has been

attained. We have every confidence that the Council will approach the task of preparing for the Conference in this spirit.

The Danish Government, like the other Governments represented in this Assembly, has not yet had time to give full consideration to all the details of the Protocol voted by the First and Third Committees. For the moment, therefore, we cannot bind our Government and Parliament, but we will vote for the acceptance of the proposal recommending the Protocol to the earnest attention of our Government. We do so in the hope that, in adopting the provisions submitted to us, this Assembly will be laying the foundation of a movement which will bring the nations of the world more security and more happiness than they have ever known.

MR. ARTHUR HENDERSON,
Home Secretary, delegate of the British Empire.

I desire cordially to support the resolutions submitted to the Assembly. Having stated my position at considerable length in the Third Committee, I confess that it is only the importance of the present occasion which impels me as a member of the British delegation to intervene in this discussion. I promise, however, to detain you only for a few brief moments.

I support these resolutions because I consider that the Protocol represents a reasoned, intelligent and scientific attempt to dispose by peaceable means of friction in international affairs. The Protocol in my opinion is an advance upon any previous effort inasmuch as it represents a development of the moral elements of the Covenant. By seeking the application of conciliation, arbitration, and legal jurisdiction it indicates the desire to make reason, right and justice—not force—the League's first line of approach in the attempt to settle this great problem. It represents a serious effort to apply that great spiritual conception which the League of Nations should always embody in its constitution and policy.

The community of interest amongst all peoples renders it imperative that peace should be preserved by the States, both large and small, being encouraged to find their guarantees of security and freedom in greater measure through a spirit of co-operation and goodwill.

The report we are now discussing very properly reminds us that arbitration is the foundation of this new structure and that the Permanent Court of International Justice is to be accepted more than ever before as an organised part of international life.

In this scheme we are declaring that there must not only be machinery for enforcing the law on the basis of existing conditions, but legal, peaceable and constitutional means of altering those conditions as and when it is considered necessary.

As Bryce, in his work on international relations, says—" Any guarantee of a *status quo* ought to be accompanied by ample provision for an examination of the existing causes of these discontents and their removal "

Though we are compelled to recognise that there may be many changes which, under existing conditions, it is not in the power of the League to make,—it cannot afford to give the impression that it is content to permit the permanent stereotyping of the wrongs of the past.

Allow me to make another point in connection with this aspect of the case

It may safely be said that this is a historic occasion and we may be pardoned a brief and grateful reference to the services of the various persons and powers, who in time past pioneered those great movements throughout the world in favour of arbitration.

In this connection the United States of America, which was the foremost advocate of obligatory arbitration at the second Hague Conference, is entitled to our gratitude and congratulations. The great ideal which the United States then nobly but ineffectually championed is bearing its great triumph.

This triumph is all the more complete not only because of the number of States which are expected to ratify the Protocol, but

also for the much greater scope of arbitration which this new scheme covers.

We send, therefore, to-night our congratulations to the pioneers of the great and good cause of international arbitration.

I now come to the question of security. Since the close of the great world war the problem of security has engaged the serious attention of statesmen in every part of the world.

Two years ago the third Assembly declared that in the present state of the world many governments would be unable to accept responsibility for a serious reduction of armaments, unless they received in exchange a satisfactory guarantee of the safety of their country.

The question of security remains to-day of primary importance because the hopes of many people are centred in their national security.

Need I remind you, that for two years the League has endeavoured to find a solution of the problem in the draft Treaty of Mutual Assistance? On September 6th, 1924, this Assembly determined upon a new examination of the existing obligations contained in the Covenant, with a view to strengthening international solidarity and settling by pacific means all disputes which may arise between States. The Assembly recognised that the security of nations could not be effectively guaranteed by sectional military alliances, but must be founded on a higher moral conception, expressing itself through universal arbitration and disarmament.

The first Committee was entrusted with the task of preparing a series of proposals which, if properly applied, will encourage States to regard with greater confidence, the moral authority of the League. It may safely be said that every school of political thought admits the need of some form of security. Any difference of opinion that exists is a difference as to method. One school says: "Give us security, and we will consider disarmament. Another says "Go in for disarmament, and you have your security".

The present scheme frankly recognises that disarmament

must, at any rate, be associated with some form of guaranteed security.

It recognises 'hat some nations will refuse to disarm and thereby expose themselves to the risk of attack and even defeat. It is a fundamental principle which no-one can dispute, that those who accept justice and disarmament shall not become, by that fact, the victim of those who do not.

In such circumstances, may I ask, how this scheme meets the case which I have just stated? First, as I have said, it seeks to be thoroughly practical by endeavouring to eliminate or to reduce to a minimum the risk of conflict; and secondly, it suspends the use of force to the last moment, to the moment at which it is required to protect the community of nations against the criminal action of an aggressor State. And even when, as a last resort, military action has to be taken, it will be conditioned, under this scheme, by guarantees to the world at large that individual States will not misuse the military action which they have undertaken on behalf of international society as a whole in order to secure what they may conceive to be their own individual material advantage.

In other words, this scheme will secure for the world as a whole a system—as the Prime Minister described it last summer in the British House of Commons—of pooled security. It will altogether (and we may hope finally) get rid of the accursed policy of imperialism by rendering impossible territorial conquest and aggrandisement. Henceforth the might of nations will be the servant of international justice.

In the present scheme we have established a joint method of comprehensive obligatory arbitration, coupled with a collective undertaking to apply sanctions against an aggressor, and we believe that this joint method will provide a more formidable and effective security than any other. When the members of the League undertake to co-operate loyally and effectively to punish the aggressor, I believe they will strive honourably to fulfil these obligations, having regard to their geographical position and the condition of their armaments. There will thus be provided in

any emergency a measure of security which will be real and effective and which is strictly consistent with the aims and objects of a real League of Nations.

I claim, moreover, that the line followed in the scheme will do much to allay the misgivings which many of the friends of the League felt because of the military and material conception on which, in their view, the draft Treaty of Mutual Assistance was based.

I confess that the Protocol contains some provisions which I would have preferred to have seen omitted. When I say this I admit, as the representative of the Netherlands pointed out with great force to-day, that great progress has, nevertheless, been made. We have had to adopt the scheme as it is because we had to recognise that as yet a full measure of confidence in the cohesion, the peaceful intentions and the moral authority of the League has not yet been established. Until this full measure of confidence has been secured some States will continue to think that military force is an indispensable condition of their national security.

I want, however, to follow this up by saying that if the League is to remain the repository of that which makes for peace and for social justice in the world, it must always stand out pre-eminently for sound policy and high ideals. The League must at all times actively remind us that war, as Mr. Hay, a former American Secretary, once said, is the most futile and ferocious of human follies. This is to be done in future by emphasising the importance of eliminating as far as possible the danger of war by the joint application of the three great principles: Arbitration, Security, Disarmament. These are to be inseparably combined and made to operate through the Covenant as amplified and clarified in the articles of the Protocol.

Finally, I would say that, notwithstanding many drawbacks and limitations, I am convinced that this scheme now before the Assembly, taken as a whole, is a great advance upon anything previously attempted. In all this work the supreme purpose we have in view is disarmament. It is only when the great Confer-

ence which we hope to call next year has done its work that the fruit of this scheme will be harvested. We hope and we intend at that Conference to achieve the measure of disarmament which will mean a vital change in the social life of almost every country and of the world as a whole.

I need not say how warmly the British delegation welcomed the words spoken to-day by M. Briand on this platform. We welcomed them because we believe that France and Great Britain, working together as they have worked here in co-operation with the other Members of the League, can secure that great measure of disarmament to which I have referred.

I know that, as M. Briand said, the technical difficulties of the problem are very great. It is no use disguising this ; the military machines we have all built up will not be easy to unbuild, and the sooner we appreciate that fact the better. We believe, however, that when the peoples of the world realise what this scheme will mean to them, their enthusiasm and their support will sweep aside any difficulties with which we may be confronted. It is forth is reason and because we believe that, notwithstanding any drawbacks and limitations it may have, this scheme, taken as a whole, is, as I have already said, a great advance upon anything previously attempted, that we trust, therefore, that every delegation will give to the resolutions their willing, loyal and enthusiastic support.

The vote which we give here to-morrow and the spirit in which that vote is given may determine to what degree our work is approved and ratified both by the Governments and the Parliaments whom we all represent.

M. PAUL BONCOUR,
Delegate of France :

Mr. President, ladies and gentlemen—The Assembly will not look to me to add anything to the speech pronounced yesterday by M. Briand, on behalf not only of the French delegation, but

also on behalf of the French Government, which had given him full powers for that purpose. M. Briand performed his task with all the authority lent by his long experience and great gifts, and with that prestige which he has earned by the fact that he has on seven occasions held the reins of Government in his country, — on more than one occasion during a tragic episode in her history.

I have, therefore, nothing to add in the name of France to M. Briand's eloquent speech, but, following the example set yesterday by my friend, Mr. Arthur Henderson, I think it is only natural that, after the heads of delegations have spoken, those who have toiled day by day at the work you are about to sanctify with your approval should, so to speak, weld into a single whole all that has been said in the remarkable reports of the two men with whom we had the honour to collaborate in this work. It is only natural that we, who, day by day, hour by hour, at these long meetings bore on our shoulders the stones wherewith our work has been built, who tested their solidity and riveted the different parts together should, now that the Assembly is on the point of voting, feel, if I may say so, like the master-builder, who, when the house is built, mounts to its topmost gable to gaze on the completed structure, and with words of hope calls on the sons of men to come in and rest their heads.

Those who read in the newspapers the somewhat fragmentary accounts of our long meetings may no doubt have thought it strange, and even paradoxical that serious men, many of them holding the highest office in their land, should pay such meticulous attention to the alteration of a word or the transfer of a comma. Indeed, the contrast between this studious attention to detail and certain very serious events that have occurred has naturally been exploited. At the very hour when we were discussing at length the best methods of ensuring peace, the heavens were ringing with the cry of peoples appealing for aid.

But at the present moment, when we can gaze on the entire completed structure, we may congratulate ourselves on the fact that, thanks to the legal experience of many among us and the statesmanship of many others, our discussions were carried on

with such meticulous care. There is surely no other Assembly that could in so short a time have built an edifice like this.

The edifice stands firm, for its foundations are laid in the juridical traditions of treaties and pacts of alliance. The Protocol is a treaty of alliance in every sense of the word, and its classic form, based on the most ancient traditions of public international law, is proof of your determination ; for, conscious of the gravity of the undertakings to be entered into, you have decided that, to give the Protocol its full force, it would not suffice for heads of delegations merely to file by in solemn procession and signify their approval, but that the obligations embodied in it could only be made final if ratified by the organs of national sovereignty in each country.

A treaty of alliance ? Of course it is a treaty of alliance · a vast treaty, intended to embrace not only the fifty-five nations which will, I trust, adhere to it, but also those which are not represented here and which, I earnestly hope, will not fail to give it their approval ; a treaty of alliance so wide as had never yet been thought possible, containing, as it does, engagements more elastic and more diverse than were ever embodied in treaties of a more definite nature.

This is the basis of the Protocol ; this is its main feature ; this is where it is new. The alliance established by it, unlike the old alliances, is not restricted to a specific group of interests, nor is it directed against another group of interests. It is, of course, concluded with an eye to a possible enemy, but that enemy is neither our neighbour across the frontier nor our successful rival in trade and commerce. That enemy is not the reigning dynasty of another country, nor yet a people that is presumed to be attempting to chastise or restrain the national ambitions of another. The enemy has no name. His name will be known when pronounced by the Court of Arbitration, when he, who, perhaps at this very moment, may be secretly harbouring in his uncomprehending heart thoughts that threaten war, will be arraigned by judges whose impartiality is above suspicion. On that day all the civilised nations of the earth must rise against him.

The name of the aggressor will be pronounced in the calm atmosphere of a hall such as this, by a permanent court of justice or by arbitrators appointed by the Council or the Court, or by arbitrators appointed by other arbitrators. These judges or arbitrators will first assure the maintenance of peace by provisional measures, which will carry with them a binding force such that the mere failure to observe them will constitute a case of aggression. They will then be able to deliberate in an atmosphere of calm, whereas on former days, in the times of the old alliances, in the midst of a nervous excitement that was only to be expected, since each wished to be the first in the field, the armies moved forward to the fray, troops were massed on either side of the frontier like gathering clouds bearing in their bosom the lightning that speeds the thunderbolt, and war began almost before it was even declared. The calm atmosphere that you have ensured for their deliberations, the tranquil environment with which you have surrounded the men who will decide on peace or war — that is the innovation which you have made in this new treaty of alliance.

That is the innovation and that is the reason why all men are closely watching our debates.

Ah, gentlemen, if we had only gathered here to make yet another grand but futile protest against war, we should be unworthy of the great hopes that attend our work and that cannot be repressed by the mockery of the cynic. And that would not explain why, at the moment when we met with difficulties, the entire world was suddenly overcast as by a cloud.

No, gentlemen, war has been reprobated throughout the centuries. Our protest is not new. Lord Parmoor was right yesterday when he said that all the greatest geniuses of the world and the highest civilisations have in their turn protested against war. But one after another the greatest civilisations have collapsed, simply because from afar there appeared over some frontier new nations, new races, whose superior strength lay in the hardness of their hearts and the sharpness of their swords.

What is new is that we have a Covenant, we have an alliance; whole nations have this time combined together to prevent the

crime of war. What is new is that we are here engaged upon the extension of the Covenant, for ere the embers of war had been stamped out, ere the wounds had been healed, ere the smoke had ceased to rise from ruined towns and villages, ere the armies had been disbanded, ere the earth had ceased to shake beneath the weight of engines of war, certain far-seeing men realised that a war like the last war could not terminate in a treaty like other treaties. They realised that the necessary preamble to that treaty was the Covenant that unites us here.

By the bitter irony of fate the nation which expounded this new alliance in clearer terms than any other is only represented here by a tablet to the memory of President Wilson, and by friendly and sympathetic observers who bring us valuable inspiration in all the different questions with which we have to deal. We hope that the day is at hand when they will collaborate in our work with the unequalled authority that will be given to our Protocol by a nation whose material power is animated by the loftiest idealism, of which she gave such signal proof in the war.

Our Covenant was established, at the conclusion of that great conflict, by men who realised that all those who died in the great conflagration made the supreme sacrifice with willing hearts because they were convinced that they had fought in a war to end war.

But like all human things, like every living being, like every national or international institution the Covenant can only prevail in so far as it follows its logical course of development, in so far as experience reveals the loopholes by which violence might again burst forth upon the world, in so far as it can in the light of past experience be steadily rendered more real and more efficacious.

This is the justification for our Protocol. It is only a development of the Covenant ; every essential part of it must first have existed in the Covenant. If I may be allowed a comparison which, I think, elucidates the scope and purport of our work, and which will be perfectly clear to the statesmen and lawyers among us, I will say that the Protocol is to the Covenant what the rules of public administration are to the law.

Everything is contained in the law, and the binding force of the provisions embodied in it can only be derived from the law. But if the law is to be made applicable and living, if it is to enter into force, it must be completed by regulations, decrees and practical measures.

That is what we have attempted to do here.

At the head of the Protocol, which develops the Covenant, extends, defines, sanctifies it and puts it into effect, we have inscribed three words, three fateful words which we have so often repeated that I feel I could almost say them in a foreign tongue if I were not afraid of mispronouncing them " Arbitration, security, disarmament ".

First, arbitration. Arbitration, let me say at once, is in itself a factor in security. I say so because, being about to show you that this factor alone is insufficient, I do not want you to think that I am one of those bold spirits, or one of those who think themselves such, whose narrow minds are mated to small hearts. I believe in the efficacy of moral forces in themselves. It is, as I believe, a great and significant fact that henceforth there will exist arbitrators and judges, accepted to-day by all signatories of the Protocol and accepted to-morrow by all who are ready to join us in our work — arbitrators and judges to whom will be entrusted the duty of declaring who is right and who is wrong, who is the aggressor and who the victim.

I am convinced that by this moral force alone, by the pronouncement of this judgment, by this application of law to force; any State which is the victim of unjust aggression will acquire such immense prestige in the eyes of the world and of its own people and will be furnished from every side with so much assistance that by that fact alone arbitration will become a means of security.

Yet, as I said just now, arbitration is only one factor in security.

When, at the assizes of this Assembly, France heard the principle of arbitration enunciated by some of those friendly observers who have not yet taken their seats among us, and accepted and reaffirmed by our friends of the British delegation and by many

others, she welcomed it with the keener enthusiasm because it represents an idea to which that great statesman to whom you have so often paid a tribute, and who is alone prevented by ill health from taking his place at the head of our delegation, has devoted his life.

But just because she believed in this principle, France knew, alas! — to repeat the saying that our Premier quoted from Pascal — that “ Justice without might is unavailing ”. France knew that many disputes had been submitted to arbitration. We were all, I am sure, edified when Lord Parmoor on this platform mentioned the great number of cases and added that not a single award had been disregarded.

I would venture to point out, however, with all deference to Lord Parmoor, that, although in the nineteenth century every arbitral award was in fact respected, it is unfortunately the fact that not one of the great conflicts for which mankind has bled, and not one of the vital causes — or what were believed to be vital causes — which led to those conflicts, was ever brought before a court of arbitration.

If, as we desire, there are to be brought before those courts not merely minor disputes, but really serious disputes, if States, in order to evade arbitration, are not to appeal one to its national honour — as if it were a slur upon honour to accept the decision of arbitrators — another to its vital interests — as if there were a more vital interest than that of safeguarding our civilisation against war — if arbitration, I say, is to be effective at all times and in all places, it must be guarded by sanctions. If we are to prevent war, the people whose eyes have not been opened by the bitter lesson of recent history, by the anguish, the wounds, the ruins in every land, must learn that war has become so difficult and so hazardous that it can never again be depicted as gay and joyous.

War must be made impossible ! only so can war be killed !

The new feature in the Protocol, the force of the Protocol, which defines the Covenant, is that, when once responsibility for aggression has been clearly and unmistakably determined before the

whole world, this fact alone will bring into play a machinery of sanctions such as history has never yet known. In the first place, it will employ general economic sanctions. Every people, every country, every nation, whatever its geographical situation, whatever its importance, whatever its traditions, whatever its history, possesses means of production which are its life-blood, possesses an economic and financial system, and, as a signatory of the Covenant and the Protocol, must not only place all these at the service of the victim of aggression, but must, in addition, deprive the aggressor of any help therefrom.

So varied, so universal in character are those economic sanctions that they will unquestionably render the situation of the aggressor intolerable. Even supposing that, at the outset, his sudden and treacherous attack were successful, he would, in a war of attrition, succumb with the sureness of Fate to the economic alliance of the whole world.

But that is not enough. Those who are to shelter in the edifice we are building, those who decide to accept general arbitration must not even for a single day be exposed to the danger of invasion or of an attack upon their political independence. The whole world must know that there must be an end of these surprise attacks, these territorial occupations which bring ruin in their train, — ruin to be followed by reparations, the burden of which threatens to overwhelm the peace of the world. For this, we must have military sanctions—aye, and naval and air sanctions too—for at present, alas! the genius of man has conquered a new element but to render more deadly his engines of destruction.

Military, naval and air sanctions, then, are essential; but it is clear that these cannot be either as universal or as uniform as economic sanctions.

We are building on a foundation of reality, a reality which is not merely European, but world-wide; and as regards sanctions, the States are clearly not all in the same position. Some of them have for years, nay, centuries, been far removed from the din of battle and from the high roads of invasion, and have in consequence been able to restrict their armaments to those required

for the defence of their territory ; they may, in fact, be considering the possibility of reducing even these. With the best will in the world, they cannot offer what they do not possess. And here I will venture to repeat the words we so often used in the Third Committee: "Our all, but no more!" Other States, which possess large forces, will obviously be loath to employ them in any and every conflict which may arise, for they are legitimately entitled to take into consideration geographical conditions.

In the case of military, naval and air sanctions, therefore, it is impossible to establish that world-wide equality, as it may be remedied, which exists in the case of economic sanctions. The Protocol repeats what is laid down in the Covenant, and defines the difference between paragraphs 1 and 2 of article 17 of the Covenant. In articles 11, 12 and 13 it emphasises the unavoidable difference between these two classes of sanctions, although the principle of sanctions remains both general and obligatory in character.

The definition of this difference in the Protocol was not reached without difficulty, and, no doubt, criticisms will be levelled at it in different countries and from very different angles. The intention was to strike a middle course which would avoid, on the one hand, what would be impracticable and would render our edifice uninhabitable, and, on the other, would obviate an excessive looseness which would have allowed a country to shirk, from purely selfish motives, its share of the work. Care has been taken to avoid leaving the decision to the Council, because such a course would have involved an infringement of national sovereignty; on the other hand, the decision has not been left to each individual State because that would have ruined the Protocol as well as the Covenant, of which the Protocol is the continuation and development. A solution has been sought in co-operation between the Council and the States. Article 12 of the Protocol provides that, as economic sanctions are general and universal in character, plans for economic and financial co-operation can and must be prepared in advance both to assist the State attacked and to be directed against the aggressor.

Article 13 of the Protocol recognises that nations, which, either through their geographical situation or through some more definite menace, are in similar position as regards a treat of aggression, are entitled to determine among themselves the precise sanctions which they could at once bring into operation on each other's behalf. Thus the Protocol retains the partial agreements, which are at once a consequence of and the reason for the varying conditions that we are obliged to take into account in the Protocol ; while, on the other hand, there are nations which cannot be asked to do anything and other which cannot undertake in advance to act in any and every case that may arise. The Protocol admits that those States which, through their situation, are bound to face such possibilities, may on that account give each other an undertaking that the military, naval and air sanctions will be applied at once. At the same time it has attuned these partial agreements to the general spirit of the Covenant. It has brought them under the scheme of arbitration and it lays down, first, that they are subject to registration and, further, that their operation is subject to supervision, in order to ensure that they are and remain purely defensive treaties coming within the general terms of the Covenant.

As regards States which do not thus take specific and joint action to counter possible danger, the Protocol lays down that they should indicate to the Council the nature of the forces which they could, if required, place at its disposal.

Of course, these States are not bound under article 13, paragraph 1, to give this information, but it should be borne in mind that the Protocol, with that logic which the authors may justly regard with a father's pride—pardonable pride, though, because there are so many of these fathers that at any rate they cannot be accused of egotism—the Protocol, I repeat, by Article 17 which deals with the third term of the problem, the final aim, the reduction of armaments, binds this reduction of armaments, or rather a detailed programme of the reduction of armaments, which, as you will rightly suppose, is the acid test for the success of the Conference, with the indication to the Council provided for in article 13.

Here we have the essence of the whole Protocol, and we see how its firm and logical structure links together the three terms of the problem.

I must draw to a close, for at this hour it is our duty to be brief. At this moment, when we are at the end of one stage, we must remember that it merely marks the beginning of the next, the reduction of armaments, and to complete that stage we must advance with hearts and minds united.

The reduction of armaments is not a cause, but an effect ; it will come into being from the very atmosphere of security which the present Protocol will give the world. The more numerous the signatures to it, the more spontaneously and enthusiastically it is signed, the more ratifications it secures, the fewer the reservations which are attached to it, the more openly and frankly will information be given to the Council. There will be reservations, of course, but they will be stated in terms so clear as to form in themselves a pledge of honour that the call for succour will be answered. Moreover, if reservations are made now, the conference on the reduction of armaments will be able to meet secure in the knowledge that it will not simply bring fresh disappointment to the people who look to it with expectant eyes.

At the stage which we have now reached we are, at any rate in spirit, like the traveller who, at each successive peak, sees new and ever new horizons open out before him. Even when we have reached the end of our road, we shall still not have attained peace. We shall have created a machinery for peace, but the policies of Governments will have to be the driving force behind the machine.

We have built our mansion. I think we have built it well. Let us first pay tribute to those who have toiled hardest to build it ; but a meed of praise is due to us all, for have we not all worked with a will during these four weeks ? Have we not by our joint labours created a bond of friendship such that, had the League of Nations done nothing else, it would still have achieved a great work ?

You have built a solid edifice, but it is for the Governments, by their policies, it is for ourselves in our respective countries, to see that this mansion can be inhabited, and that the world shall

really feel that it can therein find sufficient security to enable each nation to lay down its arms.

I will not say that our task is only beginning; it began with the Covenant on the morrow of the tragic hours of the war. But it is progressing stage by stage, and when we have reached the end of our journey we shall still have to eradicate the actual causes of war.

I was glad to hear in the Third Committee M. Jouhaux, Secretary-General of the French Confederation of Labour, say with all the authority lent by the fact that in his person the working classes are represented here for the first time: "The next, the final task will be, not to build the machinery of peace, but to uproot the causes of war themselves, and more especially all the different economic causes which in times of stress have cast their cold shadow upon us from afar, as a warning and a lesson to the peoples of the world."

When we offer the world these hopes, it is our bounden duty as delegates at once to fix their limits, to say that war cannot actually be destroyed or the menace of war be removed until the League carries its task into the economic sphere, until the efforts to analyse and find remedies for the economic causes of war are imbued with its own international spirit. If we are ever to rest secure in the edifice of peace, the great and grave problems of the distribution of raw materials, of markets, of emigration and immigration, will one day have to be taken in hand by the financial and economic organisations of the League and by its Assemblies. If they are left unsolved—let us make no mistake—they will cause internal disruption which will bring down in ruins the fabric we have reared.

The first Sunday of our arrival here was but a faint premonition of the day when the world, after its long vigil of hope and trust in the League, utters at last a great cry of joy and thankfulness. On the day when we set foot in Geneva, we were met by that generous hospitality which is as truly a characteristic of this country as its independence,—this country which in the days of the war appeared as a ministering angel of mercy to the wounded

in both camps. On that day every bell in Geneva, church bells and civic bells alike, rang out a welcome to us ; the grave bells that once sounded the hour of independence and the hour of the Reformation ; ethereal bells, wafting the sound of an angelus across the lake. But on the day when our work is complete, when we are past all the future stages of which the present is a mere prelude—on that day every bell in the world, the bells of all churches and of all nations, will ring out upon the air of freedom, and will carry to the skies, like a prayer breathed by humanity, those words which you have written on the border-line that severs Germany and France, on the great bell of your cathedral at Basle ; those words which, when the clouds of war were lowering, were uttered by : man whose name should be on our lips now, when we are completing the work for which he lived and died—Jaurès—“ *Vivos voco ; mortuos plango ; fulgura frango.* ”

Yes, it is that world-wide organisation, the League of Nations, which, carrying on the torch from the hands of those who have fallen, can truly cry : “ I call the living to life, freed at last from the terrors of war ; I mourn the dead, all the dead of every clime and country, united at last in the brotherhood of the tomb ; I shatter the thunderbolts, the powers which seek to let loose upon the world the horrors of war. ”

M. BRANTING,
Former Prime Minister, delegate of Sweden.

Mr. President, ladies and gentlemen — In addressing you I merely desire to express in a few words my agreement with the eloquent speeches pronounced by those who have preceded me, among whom I am happy to count political friends whose collaboration in the past have greatly valued.

In these past weeks we have worked strenuously and unceasingly for the embodiment in a common text of the bold promises contained in the resolution unanimously adopted by the Assembly

on September 6th. A complete system for the solution by pacific methods of all disputes arising between States has been built up under the very eyes of an astonished and still somewhat incredulous world.

Nothing could give greater satisfaction to the lesser States than to see the principle of compulsory arbitration realised in so complete a form — a result which not many would have dared to hope a few months ago.

Some, indeed, wonder whether the system elaborated by the Protocol is not too bold an advance, and whether it will really prove completely watertight. Personally, I venture to hope that the reaction which is bound to set in sooner or later will have only a passing effect. The establishment in the Protocol of the principle of compulsory arbitration will always remain a concrete result achieved by the Fifth Assembly.

But arbitration is only the first stage. Neither courts nor arbitrators are competent to make laws or to adapt existing rules to the new conditions of international life.

We must realise that more effective methods will have to be established for the development of international law. I was, therefore, particularly glad to remark the words of one of our most distinguished Rapporteurs when he pointed out the new work which lies before us in this field.

I have said that the Assembly has worked unceasingly, but the time has been so short that many Governments, although they have watched events in Geneva more closely than ever before, have not yet been able to examine the Protocol, which we have drawn up, with the care demanded by their responsibility towards their countries. Consequently, the resolution before us merely recommends the draft to the earnest attention of our Governments, in order that the latter may be perfectly free to examine the question and reach a decision. The Swedish Government, among others, reserves to itself such freedom of action.

The new system amounts to an organic development of the Covenant. The provisions concerning arbitration will have to be embodied in the Covenant. The provisions concerning sanc-

tions do not necessitate any amendment to the Covenant, because they are not intended to introduce new principles, but merely to render the principles of the Covenant more effective in application, above all, by determining who is the aggressor. The economic and financial sanctions have been more clearly defined than is the case in article 16 of the Covenant. As regards the other sanctions, the Protocol merely underlines their importance from the point of view of loyal and effective collaboration, and the Governments do not surrender to the Council their right to decide the manner and extent of their participation.

The system of the Protocol is therefore elastic and supple. It has been possible — and indeed it was necessary — to take into account the situations of various countries, as explained in the statements of the delegates during the discussions in the Sub-Committees and Committees. A great effort has been made to build up a system which will meet with the approval of all delegates, although they belong to countries which present every variety of geographical situation, traditional policy and material resources. In a country like my own, which has been able, thanks to her geographical situation and the peaceful aspirations of her people, to hold aloof from the conflicts which for more than a century have drained the lifeblood of Europe, an attempt to give more definite expression to the principle of international solidarity may alarm certain sections of public opinion, when confronted with this vast plan, as happened at the time of our entry into the League. Nevertheless, I am sure that our people will realise that it is possible to strengthen the bonds of international solidarity without compromising national sovereignty.

A great conference on disarmament will meet next summer, and the application of the new system will depend on the success of that conference. Accordingly the third indispensable factor in the three-fold principle of " Arbitration, Security, Disarmament " has not been deferred until some distant date, and that is one of the essential features of the new system.

Our work will now be submitted to our Governments and Parliaments. The Swedish delegation ventures to hope that the

examination of our draft will be conducted in the spirit which has characterised our work at Geneva, that is to say, in full consciousness of the vital importance and difficult nature of the work, and also with a determination to reach a positive and decisive result.

PRINCE ARFA-ED-DOWLEH,
First delegate of Persia.

Mr. President, ladies and gentlemen — The Assembly has listened to such moving speeches that I will not venture to add to their number. I merely propose to fulfil a moral duty.

This Assembly has marked a step forward in the history of man by instituting compulsory jurisdiction supported by a combined police. The progress which you have made is immense, and my thoughts revert to the first Hague Conference twenty-one years ago, when we sat side by side with our revered and noble-minded colleague, M. Léon Bourgeois.

There was at that Conference also another noble figure, who did not take his seat among the delegates, but whose ardent soul and constant inspiration hovered over the whole Conference. I refer to the great publicist, William Stead, editor of the "Review of Reviews", who had negotiated with all the Courts of Europe to have the Hague Conference convened.

This indefatigable apostle of arbitration and peace published a daily journal of the Conference and brought the delegates and journalists together in private gatherings which have become historic. He endeavoured to embue us with his own deep enthusiasm.

At this historic moment I desire to pay a solemn tribute to this man, who a quarter of a century ago preached to us the doctrine of compulsory arbitration and an international police. He would to-day have witnessed with untold joy the triumph of his idea, and he would have been supremely happy to know that the initiative in this magnificent work had been taken by

the Prime Minister of his own country and the Prime Minister of France. May his name be inscribed in letters of gold amongst the pioneers of the movement !

The example of William Stead should convince the younger generation that is listening to us, and all men of unprejudiced mind, that despite all obstacles and all difficulties noble conceptions of justice always triumph in the end.

Given courage, patience and perseverance, the good seed sown will always some day produce an abundant harvest.

Last year it was the painful but necessary duty of Persia to prevent, by her single vote, a dangerous attrition of the force of article 10 of the Covenant, but to-day you have all contributed to strengthen this article and article 13 by an admirable system of practical measures. Persia of all countries has reason to rejoice at this fact.

You have understood us, we understand one another. And that is the meaning of unanimity.

Mr. DANDURAND,

Minister of State, first delegate of Canada.

I do not take this platform to make any criticism, however slight, of the work of our Committees ; that work may well mark a red letter-day in the annals of humanity.

I rise simply to explain to you, in a few words, how, up to this time, Canada has regarded the problems a solution of which we have been seeking here, and to tell you the reason for her preoccupations in face of the obligations which she may be called upon to carry out.

I must first pay my tribute of admiration to the chief builders of the fine structure which has been presented to us, to the Chairmen of the two Committees who guided our work with tact and firmness, to the architects, M. Benes and M. Politis, who prepared the plans, as well as to their brilliant fellow-workers.

The three chief pillars upon which this structure has been erected—arbitration, security and disarmament—have long been

accepted and applied in my country. It may be worth while to refer to the fruits which they have yielded us, for those are the results that you are seeking here. Not only have we had a hundred years of peace on our borders but we think in terms of peace, while Europe, an armed camp, thinks in terms of war.

As to arbitration, we have put it into practice in every field, including our rights to territory. In agreement with the United States we have set up a permanent International Joint Commission, composed of three Canadians and three United States members, who are charged with the duty of regulating every difference which may arise on our frontiers, and, particularly, on the great lakes and rivers which constitute our border-line for many hundred miles.

During the past twelve years, more than a score of questions have been settled in this friendly manner between our two countries.

In the last few days, the First Committee found itself unable to conclude its work because the question of national sovereignty and the repercussion beyond the borders of one country of the exercise of rights of domestic jurisdiction, had suddenly been raised.

That Committee concluded that in the interest of world peace the League of Nations could not wholly disinterest itself in such problems. Toward the solution of similar difficulties, may I bring to your attention the views of a statesman of the United States, Mr. Charles E. Hughes, Secretary of State.

In an address which he delivered in Montreal, on September 4th last year, at the annual meeting of the Canadian Bar Association, Mr. Hughes expressed his appreciation of the work of our International Joint Commission, and he added the following suggestion, as an expression of his personal opinion, arising out of the good work of this body. This suggestion has a direct bearing on the question of domestic jurisdiction and national sovereignty :

“ While I do not undertake ”, he declared, “ to speak officially upon this subject, I may take the liberty of stating as my personal point of view that we should do much to

foster our friendly relations and to remove sources of misunderstanding and possible irritation, if we were to have a permanent body of our most distinguished citizens acting as a commission with equal representation of both the United States and Canada, to which automatically there would be referred, for examination and report, as to the facts, questions arising as to the bearing of action by either Government upon the interests of the other, to the end that each, reasonably protecting its own interests, would be so advised that it would avoid action inflicting injury upon its neighbour. "

The Prime Minister of Canada, Mr. Mackenzie King, who was present at this meeting, at once expressed his concurrence in the suggestion. Is there not in this suggestion an intimation that the exercise of a right may be tempered by equity and conciliation ?

This, then, is the spirit in which we face our international problems.

This habit of having recourse to arbitration and to peaceful settlement has given us the feeling and assurance of complete security. On the whole of the frontier stretching from the Atlantic to the Pacific, we have not a single soldier, not a single cannon, and the three thousand men in our permanent force are certainly not a threat to the peace of the world. This, then, has been our position as regards arbitration, security and disarmament.

What is the bearing of the Protocol on these three points ?

It is my firm conviction that Canada, faithful to her past, will be prepared to accept compulsory arbitration and the compulsory jurisdiction of the Permanent Court of International Justice. Further, I believe she would be prepared to accept all the sanctions that might be imposed in case she refused to accept the decisions of the court of the arbitrators.

As to disarmament, we have already attained the ideal toward which you are striving.

There remains the question of sanctions. Prepared to accept sanctions against herself, in what measure can Canada pledge herself to impose them upon others ?

We have already demonstrated that in times of serious crisis we have a full appreciation of our international responsibilities. Canada, in complete independence, entered the great war, out of sentiment, not out of interest or necessity, and to-day she is raising in taxes for the payment of interest on her war debt and war pensions a sum exceeding her whole annual revenues before the war. Nearly five hundred thousand men, out of a population of eight millions, crossed the Atlantic and sixty thousand of them did not return.

When the war was over, we signed at Versailles the Covenant of the League of Nations. We will be loyal to that Covenant. We are not forgetful, however, of the conditions under which we signed it. Canada was then far from thinking that she would have the whole burden of representing North America when appeals would come to our continent for assistance in maintaining peace in Europe.

The falling away of the United States has increased, in our eyes, the risks assumed, and the history of Europe in the past five years has not been such as to lessen that apprehension.

The heavy sacrifices to which we agreed for the re-establishment of peace in Europe led us to reflect on what the future might hold in store.

May I be permitted to add that, in this Association of Mutual Insurance against fire, the risks assumed by the different States are not equal? We live in a fire-proof house, far from inflammable materials. A vast ocean separates us from Europe. Canada therefore believed it to be her duty to seek a precise interpretation of what appeared to her to be the indefinite obligations included in article 10 of the Covenant.

We besought you to make more precise the scope of the obligations flowing from this clause, in order that the geographical situation and special conditions of each State might be taken into account, and that it would appear quite clearly that our own Parliament retained the decision as to the measure of its participation in the conflict. That interpretation secured the support of the Fourth Assembly, with a single dissenting vote.

We hope that it will be possible to find, in the Protocol which is presented to us, the policy expressed in last year's resolution interpreting article 10.

I recognise that the closely elaborated plan before us forms a logical and harmonious whole, corresponding to the needs of Europe and designed mainly for application to that continent.

Our Government and our Parliament will have to consider in what measure this Protocol will meet the conditions of our country, and decide whether it can undertake to subscribe to its obligations.

We can assure our colleagues that this study will be made with the fullest sympathy and in the same spirit that has animated the members of this Assembly, who have conscientiously striven to find the most certain method of ensuring the peace to the world.

The Canadian Delegation, animated by the same sentiments, will vote for the resolution before it.

M. DE MELLO-FRANCO,
Ambassador and first delegate of Brazil.

Mr. President, ladies and gentlemen—At a moment when the Assembly is about to approve the loftiest, the noblest resolutions which have ever been laid before a meeting of sovereign States—these great resolutions on arbitration, security and the reduction or limitation of armaments — I am proud and happy to mount this platform to tell you once again that Brazil will loyally cooperate in every endeavour to bring the world final and lasting peace.

In the few years which have elapsed since its creation, the League has already achieved many valuable results. Yet though it aroused great confidence in those who had faith in the future of the human race, was there a single one, even among the most optimistic, who would have dared to hope for so speedy a realisation of his highest ideals ?

The decisive factor in this great triumph of right and justice was unquestionably the support furnished by the Great Powers. They have thereby rendered a service of inestimable value to the

cause of peace. It is a fact which must be recognised and on which all Members of the League have reason to congratulate themselves.

At the first Peace Conference, the twenty-six nations represented there entrusted to subsequent international assemblies the imperative duty of finding a solution for the grave problem of the peaceful settlement of conflicts which might arise between nations. Since then this problem has become the chief preoccupation of mankind, and an earnest endeavour has been made to discover a formula which would safeguard every country's supreme right of self-defence and at the same time inspire real confidence in a collective guarantee to be afforded by the assurance of equal treatment before a single judicial authority.

The second Peace Conference made considerable progress towards a solution by drawing up a draft convention for the establishment of a permanent court of justice, but it was unfortunately impossible to reach agreement upon the composition of the court.

It was left for the first Assembly of the League in 1920 to reap the glory of overcoming the great difficulty which had led to the breakdown of the attempt of 1907. I have no need to remind you that that Assembly drew up the Statute of the Permanent Court of International Justice. But the final triumph belongs to the fifth Assembly, and is expressed by the approval, which you are about to signify, of the Protocol recognising the jurisdiction of the Permanent Court of International Justice as compulsory *ipso facto* and without any special convention.

This development is in a large measure the outcome of the preparatory work done by the Institute of International Law, the International Law Association, the Inter-Parliamentary Union at Berne, the International Bureau at Brussels and the Pan-American Conferences.

It is also due to the work of the great apostles of peace, the foremost of whom, among those that are dead, is the historic and unforgettable figure of President Wilson. Happily we still have among us another noble figure to represent these apostles, M. Léon Bourgeois, that venerable crusader whose tireless and ever buoyant energy has never known a moment's discouragement.

We are also indebted for what has been achieved to the members of the First and Third Committees, and particularly to their Chairmen and Rapporteurs, Sir Littleton Groom, M. Politis and M. Benes, who have displayed so much tact and such a sense of diplomacy in conducting the memorable discussions of these Committees in an atmosphere of peace which promoted the attainment of really constructive results.

The attitude of the Brazilian delegation during the preparation of the drafts which are now before the Assembly has always been dictated by a steadfast desire for peace guaranteed by justice, but we have at the same time been constantly animated by the wish to reconcile any differences of opinion which might arise between the representatives of the different States during the discussion of these complex problems.

Thus, the compromise reached by the delegations as regards conflicts left by international law to the exclusive jurisdiction of one of the parties met with the full support of my distinguished colleague, M. Raoul Fernandes, who rightly regarded article 11 of the Covenant as embodying that great spirit of concord which should animate the whole system created by the Covenant. Under this article the Council and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations.

As you know, ladies and gentlemen, arbitration and peace have been long established on the American continent. The frontiers which separate the countries of America are in point of fact merely geographical terms intended to determine the sphere of jurisdiction of each country in its own territory. But all American countries are inspired by the same ideals, all have the same conception of morality.

The contribution we have made towards the great triumph of to-day is to be attributed mainly to this community of sentiment, the result of the endeavour of a common aspiration inspired for a whole century by a sense of the brotherhood of man.

Brazil is deeply imbued with this American feeling of confidence in the law. Our people have been trained to respect the fundamental dogma of the juridical equality of States:

For these reasons I have great pleasure in informing you that Brazil will vote for the conclusions proposed by the First and Third Committees.

M. COMNENE,

Minister plenipotentiary in Switzerland, delegate of Roumania.

Mr. President, ladies and gentlemen — Roumania, who has experienced in the course of her history all the horrors of invasion and aggression, and who has now achieved her national unity, aspires more ardently than ever to peace.

Roumania has no territorial ambitions ; her one desire is to live at peace with all nations, to respect their rights and to co-operate with them in the urgent work of reconstruction. She has therefore the greatest satisfaction in approving the work accomplished by the Fifth Assembly.

That work is perhaps not perfect — no one can claim that — but it must be regarded as constituting a very important step towards the ideal of universal brotherhood which is the irresistible tendency of mankind.

In the conviction that the disarmament conference will find equitable means of reconciling the necessity of reducing armaments with the requirements of national security, the Roumanian delegation has the honour to vote in favour of the resolutions which have been laid before the Fifth Assembly.

M. SKRZYNSKI,

Minister for Foreign Affairs, first delegate of Poland.

Mr. President, ladies and gentlemen — The Protocol for the Pacific Settlement of International Disputes is now before us and awaits our approval.

The work accomplished during the past few weeks has been truly remarkable. It received its impulse from the Franco-

British agreement, it was born of the untiring efforts of the representatives of all the nations assembled here, and it was inspired by the love of peace and by faith in the brotherhood of man. It is the result of energy and lucidity of thought. These are the claims of the present Protocol to greatness, these are the guarantees of its permanence.

We shall bear home with us, along with the written text, this deep-seated feeling, which will ever be the most forceful interpretation of that text.

On behalf of the Polish delegation I particularly wish to say how deeply and forcibly we were impressed by those earlier debates at which the two Prime Ministers gave a powerful inspiration to the community of States we represent, and hand in hand set out upon the road on which we have confidently followed in their footsteps.

I also wish to say on behalf of my delegation that we will long remember the discussions that followed, in the course of which we had the privilege of associating with so many men conspicuous by their talents and intellectual ability. I will not refer to any by name, for our thanks and admiration go out to all alike. Their work, which is of the same grand proportions as their genius, will endure as the achievement of the great constructive force of international solidarity which is the only guarantee of peace.

There is one name, however, which I cannot pass over in silence. I wish to pay a tribute to a great man, who has inspired all our work and whose noble spirit is reflected in every sentence of the Protocol — which, after all, is nothing more than a continuation and development of the Covenant. At this moment, when we are placing the final touches on a great work of peace, it is my duty to voice the inmost feelings of the Polish nation by mentioning a name which will be inscribed on the portals of the temple of peace, a name which generations yet unborn will never speak without emotion, and which will be worshipped by my country with grateful hearts — the name of Woodrow Wilson.

Ladies and gentlemen, I have the honour to speak here on behalf of Poland, a country whose history goes back over a

thousand years, a country which has many times in the past deserved well of humanity, and which has suffered the horrors of partition, a country threatened and exposed because it was surrounded by Great Powers whose tradition it was to despise democracy and freedom. Poland is still threatened, still in danger. That has been said again and again. But I must tell you why she is threatened, and I beg you to try and realise the truth of it. The reason is that on the marches of Eastern Europe she is the outermost, the most exposed stronghold of democracy.

I wish on behalf of my Government to make the following declaration. The Protocol which is before us is a document of immense importance, which lays the foundations of peace on the basis of security, founded in its turn on the respect for the law of treaties and of the territorial integrity of States. By establishing compulsory arbitration it condemns every war of aggression as an international crime. I am proud and happy to state that, on behalf of the Polish Government, I will sign the Protocol, wishing thereby to collaborate with you in setting up this grand monument achieved by the mind of man, which is to guide the world towards the realm of a higher life and a higher civilisation.

M. GUANI,
First delegate of Uruguay.

Mr. President, ladies and gentlemen—the delegation of Uruguay desires to state its profound admiration and complete approval of the magnificent results now submitted to the Assembly, which have been attained owing to the skilful co-operation and conciliatory spirit of the members of the First and Third Committees.

We also feel that homage is due to the representatives of those Powers which, by the greatness of their past achievements, the vitality of their traditions and the splendour of their civilisation, have at all times had so decisive an influence on the destinies of mankind. At a moment when new vistas of international concord

and solidarity are opening before our eyes, these Powers have been able to overcome, in the cause of peace, all those divergencies of interests which might have prejudiced the success of our common cause.

The States of Latin America cannot and will not remain indifferent to the magnificent effort achieved by the Fifth Assembly of the League to endow the world with a living and effective legal and political instrument, which will safeguard peace, preclude the possibility of war and brand aggression as an international crime.

The country which I have the honour to represent will, I am convinced, accept with the greatest satisfaction the Protocol of Peace which we have elaborated, and my Government will hasten to give it its full approval and will aspire to the honour of being one of the first to sign it.

M. TAI TCHENNE LINNE,

Minister Plenipotentiary at Stockholm, delegate of China.

Mr. President, ladies and gentlemen, upon receiving the final draft of the Protocol, the Chinese delegation immediately communicated it to its Government for an opinion. Unfortunately, however, owing to our country's remote position and to lack of time, we have been unable to consult our Government as fully as we would have wished.

I desire, however, to state that the Chinese delegation is prepared to vote without any reservation for the draft resolution submitted to the Assembly. It hopes that the vote will be unanimous in order that public opinion may fully appreciate the value of the work done by the First and Third Committees, which has been admirably expounded by the two distinguished Rapporteurs.

We rejoice that we are able to take part in this great and universal manifestation of the sentiments of solidarity, peace and justice, sentiments that have never before received such solemn and moving expression.

M. VILLEGAS,
Former Prime Minister, delegate of Chile :

Mr. President, ladies and gentlemen — The Chilian delegation wishes to join in the tribute that has been paid by the representative of other Powers to the magnificent work achieved by the fifth Assembly of the League.

It notes with genuine satisfaction the favourable reception which has been accorded to the Protocol for general compulsory arbitration submitted by the First and Third Committees.

The draft Protocol and the report of those admirable craftsmen, M. Politis and M. Benes, which will serve as an authoritative commentary thereon, conform in all respects to those principles by which my country has always been guided in the field of arbitration.

I wish, therefore, to declare that the Chilian delegation will enthusiastically adhere to the draft resolution submitted by the First and Third Committees.

Personally, I firmly believe that the Protocol will ere long become a pledge to which the whole world will subscribe, and which, if it does not kill war, will at least pronounce the doom of any future aggressor.

Mrs. SWANWICK,
Substitute delegate of the British Empire :

Mr. President and fellow delegates — I feel very deeply her kindness and courtesy of the President and of my fellow delegates in allowing me to say a very few words. It is perhaps due to the fact that no woman has spoken on this subject at this Assembly, and that we have the classical privilege of the last word. At the same time, ladies and gentlemen, it would be immodest in the extreme for one woman to attempt to speak for all women. There is always a danger, as every woman in this hall knows, of people saying, when a woman speaks that she speaks for all her sex. We

differ, gentlemen, as much as you do, though perhaps no more.

I wish to appeal to you, however, in a way that I think perhaps no woman would contradict, and I believe in my heart no man either. I would appeal to you in the words of the speech that I think moved me more than any I have heard here, that of M. Paul Boncour, in which he said that you had been making a great machine. It is a formidable and a complex machine, and it will depend entirely upon the spirit that moves that machine whether it is a machine for good or for evil.

We have listened and have taken part—women as well as men—in the discussion and study of this difficult problem. We are going back to our respective countries, and we shall have to explain the scheme we propose; we shall have to explain to the workers of the world its provisions and its possibilities, and also its dangers. We must get the adherence of the workers of the world if we are to make this an engine for good.

In one way, I am not afraid to speak as a woman, because modern life has shown us a few women who have looked into the future and realised the great responsibility of women. We have had women who have suffered the very worst that women can suffer in the loss of their dear ones, but who have yet appealed against revenge and pleaded for reconciliation. We have had women like the mother of Rathenau, who appealed that there should be no vengeance for the loss of her son. We have had a wife like Signora Matteotti, who made the same appeal, that men should not revenge the wrong done to her. We English are proud of having, among our patriotic women, Nurse Edith Cavell, who said, in words which should be engraved in letters of gold on her statue (but which unfortunately are not) that "Patriotism is not enough".

We have a great responsibility. You, who are the representatives of Governments all the world over, have to speak and act for the dumb millions of the world, and the responsibility that falls upon you, so that there shall be no disillusionment in this matter, is tremendous. If, when this great engine is perfected, it is not used as it is intended to be used by you who have made it

here, for impartial judgments, you will lose the faith and the confidence of the common people all the world over in the reality of the League of Nations.

At last we are told that arbitration is going to take the place of war ; at last we are told that security is coming to us, and I hope that that security will be a security of a very different order from that which women have been promised by men all down the ages. Do not you think that Hector told Andromache that he was protecting her ? Do not we remember that throughout all the World War and the years that have followed it the cry of Astyonax has rung in our ears all the world over : “ Remember that when you turn your arms against each other, my brothers, the first victim is the child ”.

V

**FINAL RESOLUTIONS ADOPTED
BY THE FIFTH ASSEMBLY**

on October 2nd, 1924

I

I. THE ASSEMBLY,

Having taken note of the reports of the First and Third Committees on the questions referred to them by the Assembly resolution of September 6th, 1924,

Welcomes warmly the draft Protocol on the Pacific Settlement of International Disputes proposed by the two Committees of which the text is annexed to this resolution, and

DECIDES :

(1) To recommend to the earnest attention of all the Members of the League the acceptance of the said draft Protocol ;

(2) To open immediately the said Protocol in the terms proposed for signature by those representatives of Members of the League who are already in a position to sign it and to hold it open for signature by all other States ;

(3) To request the Council forthwith to appoint a Committee to draft the amendments to the Covenant contemplated by the terms of the said Protocol ;

(4) To request the Council to convene an International Conference for the Reduction of Armaments, which shall meet at Geneva as provided by the following stipulations of Article 17 of the draft Protocol :

“ In preparation for the convening of the Conference, the Council shall draw up, with due regard to the undertakings contained in Articles 11 and 13 of the present Protocol, a general programme for the reduction and limitation of armaments which shall be laid before the Conference and be communicated to the Governments at the earliest possible date, and at the latest three months before the Conference meets.

“ If by May 1st, 1925, ratifications have not been deposited by at least a majority of the permanent Members of the Council and ten other Members of the League, the Secretary-General of the League shall immediately consult the Council as to whether he shall cancel the invitations or merely adjourn the Conference to a subsequent date to be fixed by the Council so as to permit the necessary number of ratifications to be obtained. ”

(5) To request the Council to put into immediate execution the provisions of Article 12 of the draft Protocol.

2. THE ASSEMBLY,

Having taken cognisance of the report of the First Committee upon the terms of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice ;

Considering that the study of the said terms shows them to be sufficiently wide to permit States to adhere to the special Protocol, opened for signature in virtue of Article 36, paragraph 2, with the reservations which they regard as indispensable ;

Convinced that it is in the interest of the progress of international justice, and consistent with the expectations of the opinion of the world, that the greatest possible number of States should, to the widest possible extent, accept as compulsory the jurisdiction of the Court,

RECOMMENDS :

States to accede at the earliest possible date to the special Protocol opened for signature in virtue of Article 36, paragraph 2, of the Statute of the Permanent Court of International Justice.

II

1. The Assembly recommends the Council to place the question of Regional Agreements for the Reduction of Armaments on the agenda of the International Conference for the Reduction of Armaments.

2. Whereas the majority of the States which have replied have stated that, with certain exceptions, they have not exceeded the expenditure on armaments shown in their last budgets, and whereas the recommendations addressed to

the Governments relates to the period which must elapse before the meeting of the International Conference for the Reduction of Armaments, which is to take place next year :

The Assembly does not consider it necessary to repeat the recommendation regarding the limitation of expenditure on armaments, as this question is to be placed upon the agenda of the International Conference for the Reduction of Armaments.

3. The Assembly is of the opinion :

1. That another technical conference on naval disarmament is unnecessary.

2. That the question of naval disarmament should be discussed as part of the general question of disarmament dealt with by the International Conference proposed in the resolution of September 6th, 1924, adopted by the Fifth Assembly, and that it rests with the Council to settle the programme.

4. The Assembly requests the Council, in preparing the general programme of the Conference for the Reduction of Armaments provided for in Article 17 of the Protocol, to consider the advisability of including in that programme the following points :

1. General plan for a reduction of armaments in accordance with Article 8 of the Covenant, in particular :

(a) Basis and methods of reduction (budget, peacetime effectives, tonnage of naval and air fleets, population, configuration of frontiers, etc.).

(b) Preparation of a typical budget for expenditure on armaments.

2. Special position of certain States in relation to the reduction of armaments :

(a) Temporary reservations by countries exposed to special risks ;

(b) Recommendation of regional agreements for the reduction (or limitation) of armaments.

3. Recommendation of the establishment of demilitarised zones (Article 9).

4. Control and investigation of armaments in the contracting States.

The Assembly also requests the Council to instruct the competent organisations of the League to examine the schemes relating to the above questions which have already been submitted to the Third Committee, or which may subsequently be received by the Secretariat, and to take them into consideration in preparing the programme of the Conference.

VI

SIGNATORIES OF THE PROTOCOL FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

Up to October 31st, 1924, the Protocol for the Pacific Settlement of International Disputes had been signed by the following States :—

Albania
Belgium

Greece
Latvia

Brazil	Paraguay
Bulgaria	Poland
Chile	Portugal
Czechoslovakia	Kingdom of the Serbs, Croats and Slovenes
Esthonia	
France	

The Protocol has been ratified by Czechoslovakia.

VII

SIGNATORIES OF THE PROTOCOL RELATING TO ARTICLE 36 OF THE STATUTE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE

Up to October 31st, 1924, the following States had signed the Protocol relating to Article 36 of the Statute of the Permanent Court :—

Austria	Liberia
Brazil	Lithuania
Bulgaria	Luxemburg
China	Norway
Costa-Rica	Panama
Denmark	Netherlands
Dominican Republic	Portugal

Esthonia
Finland
France
Haiti

Salvador
Sweden
Switzerland
Uruguay.

VIII

**RESOLUTION ADOPTED
BY THE COUNCIL ON OCTOBER 3rd, 1924**

1. With a view to the preparation of the Conference for the Reduction of Armaments, the Council decides to form itself into a Committee. The representatives on the Council who consider that it will not be possible to attend the Committee in person will, as soon as possible, send to the Secretary-General the names of their substitutes on this Committee.

The Committee will hold its first meeting on November 17th,¹ in order to draw up a general programme of the work connected with the application of Article 12 of the Protocol and with the reduction of armaments.

The Governments of the States represented on the Council are requested to give their representatives on the Committee the necessary instructions in order that the general lines of the programme may be laid down during its meeting of November 17th. The Secretary-General will invite the Governments of the States Members of the League not

¹ The meeting of the Preparatory Committee was adjourned. The Council, at an extraordinary session held at the end of October, at Brussels, decided to draw up a general programme at its December session.

represented on the Council to forward through him to the Committee any suggestions which they may think useful with a view to the preparation of this programme.

2. The Secretariat is requested to collect the data necessary for the economic and financial investigations relative to the application of Article 12 of the Protocol, and is authorised to distribute these data to the competent organs of the League (Economic and Financial Organisation and Transit Organisation) with a view to the work which will subsequently be required of them by the Committee.

The Secretariat will obtain information from the official documents at the disposal of the League or from documents which might, if necessary, be furnished by the Governments.

3. In conformity with the Assembly resolution, and in order to assist the Committee in co-ordinating the preparatory work for the Conference, the Temporary Mixed Commission shall be re-organised and shall take the name of the Co-ordination Commission, and be composed as follows :

(a) The Committee of the Council (ten members), assisted by :

(b) The President and one member or two members of each of the three Organisations, Economic, Financial and Transit (six members) ;

(c) Six members appointed by the Permanent Advisory Commission (six members) ;

(d) Two members of the Employers' Group, and two members of the Workers' Group of the Governing Body of the International Labour Office, appointed by the latter (four members).

(e) If considered advisable, a certain number of experts—jurists and others—appointed by the Council. The Secretary-General is requested to invite at a suitable moment the above-mentioned organisations to appoint their representatives.

IX

ANNEXES

**1) Article 36 of the Statute of the Permanent Court
of International Justice**

Article 36. — The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in treaties and conventions in force.

The Members of the League of Nations and the States mentioned in the Annex of the Covenant may, either when signing or ratifying the Protocol to which the present Statute is adjoined, or at a later moment, declare that they recognise as compulsory *ipso facto* and without special agreement, in relation to any other Member or State accepting the same obligation, the jurisdiction of the Court in all or any of the classes of legal disputes concerning :

- (a) The interpretation of a treaty ;
- (b) Any question of international law ;
- (c) The existence of any fact which, if established, would constitute a breach of an international obligation ;
- (d) The nature or extent of the reparation to be made for the breach of an international obligation.

The declaration referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain Members or States, or for a certain time.

In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

2) Relevant Articles of the Covenant

Article 8. — The Members of the League recognise that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to warlike purposes.

Article 10. — The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

Article 11. — Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

Article 12. — The Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or *judicial settlement* or to enquiry by the Council and they agree in no case to resort to war until three months after the award by the arbitrators or the *judicial decision*, or the report by the Council.

In any case under this Article the award of the arbitrators or the *judicial decision* shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

Article 13. — The Members of the League agree that, whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration or *judicial settlement*, and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration or *judicial settlement*.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration or *judicial settlement*.

For the consideration of any such dispute, the court to which the case is referred shall be the Permanent Court of International Justice, established in accordance with Article 14, or any tribunal agreed on by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award *or decision* that may be rendered, and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award *or decision*, the Council shall propose what steps should be taken to give effect thereto.

Article 14. — The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Article 15. — If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration *or judicial settlement* in accordance with Article 13, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavour to effect a settlement of the dispute, and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute

and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the Members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the Members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the disputes provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties

to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than the Representatives of one or more of the parties to the dispute.

Article 16. — Should any Member of the League resort to war in disregard of its covenants under Articles 12, 13 or 15, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military, naval or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimise the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

Article 17. — In the event of a dispute between a Member of the League and a State which is not a Member of the League, or

between States not Members of the League, the States or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles 12 to 16 inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given, the Council shall immediately institute an enquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article 16 shall be applicable as against the State taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

Article 19. — The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

**SERVANTS OF INDIA SOCIETY'S
BRANCH LIBRARY
BOMBAY**