UNIVERSITY OF CINCINNATI

May 24th 1934

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entitled The Assembly of the League of Nations; its Organization and Procedure

be accepted as fulfilling this part of the requirements for the degree of Doctor of Philosophy

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THE ASSEMBLY OF THE LEAGUE OF NATIONS; ITS ORGANIZATION AND PROCEDURE

A dissertation submitted to the

Graduate School

of the University of Cincinnati

in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

1934

by

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Chapter I. The Pre-War Background

It not infrequently happens in the history of a political institution that, after a long and laborious period of growth and development, a temporary halting place, a milestone, so to speak, is reached. Usually at this stage there is much talk of the beginning of a new epoch; the part of the past in making the present is generally forgotten. So it has been with the League of Nations. In 1919, it was feelingly claimed that "at one bound, and in the short space of ten years, we have jumped from the old order to the new..... One epoch closes in the history of the world, and another opens."[1] In actual fact, however, the Covenant of the League of Nations represents not so much a sudden leap from the old order to a new, as a step forward in the steady advance away from the old and towards the new.

Prior to 1914 the world community had developed international organizations to meet its needs in various fields of activity. In the administrative field, there had come into existence numerous public administrative bodies, each in response to some specific need. The outstanding pre-war organization of this sort was the Universal Postal Union, founded in 1874, and consisting of a Congress and a Bureau, the former meeting every five years, to determine, subject to ratification by the adminis-

1. By Jan C. Smuts. Quoted in Morley, Felix, The Society of Nations, Washington, D.C.,1932. p.xvii.

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trations participating, the organization, powers and policies of the union, the latter a permanent agency, its functions being to collect, coordinate and circulate information concerning the international postal service, to prepare the agenda for the congresses, and the like. In the judicial field, substantial pregress was made before 1914 in the substitution for war of peaceful methods of settling international disputes. Without going into detail, we can mention as pacific methods for the settlement of disputes, good offices and mediation, conciliation, and arbitration, the development of the latter culminating in the Hague Permanent Court of Arbitration, set up as a result of the deliberations of the First Hague Peace Conference in 1899. Finally, in the legislative field, we find the more direct antecedents of the League Assembly, embodied in the pre-war developments of the international conference system.

The beginnings of this system, found in the establishment of the modern national state system, are of no concern here. For our purpose it is unnecessary to go very far back of 1914. By that time, the conference system had developed to a fairly advanced point, its outstanding applications being represented in the Pan-American Conferences, and the Hague Peace Conferences of 1899 and 1907.

The Pan-American movement, dating back to the first half of the nineteenth century, did not take definite form until the holding of the first Pan-American Conference at Washington, under the auspices of the United States, in 1889-1890. For this conference there was little preparatory and preliminary work; its

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members were strictly diplomatic representatives of the eighteen American States which attended; its agenda was severely restricted to certain non-controversial subjects; and its work resulted in the adoption of nineteen innocuous recommendations, which did not call for any special action on the part of the Governments concerned. However, the eighteen States assembled at Washington did organize an International Bureau of American Republics, which was to publish and distribute information of a commercial nature.[2] After 1910 this organ evolved into the permanent Pan-American Union, with headquarters at Washington. But no administrative agencies for plenary conferences were created; in fact, no definite arrangement was made for any further conferences. After eleven years, however, a second gethering was called in response to the united efforts of Mexico and the United States, but by the invitation of the former. It was held in Mexico City in 1901-1902. Its agenda was drawn up on the initiative of the inaugurating States, followed by exchange of views until final agreement between the States concerned was reached. As for organization and procedure, the example of the peace conferences of the past was followed. For its President, the conference chose the leading delegate of Mexico, the State in which its meetings were held; it organized itself into several committees and sub-committees; there was equality of voting, and the rule of unanimity was operative in the plenary sessions. Notable among the resolutions adopted by this conference was one calling for another conference within the next five years, on the understanding

2. Special Handbook for the Use of Delegates to the Sixth International Conference of American States. Prepared by the Pan-American Union, Washington, D.C., 1927. p.1

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that the time might be extended in case a meeting should become impossible. The place decided upon was Rio de Janeiro, so Brazil was authorized to fix the date for the convocation of the next conference.[3] This step represented an important advance, in that it made for regular periodic meetings, to some extent at least. As a result of this resolution, the Third Conference of American States convened at Rio de Janeiro in 1906. In regard to organization and procedure it made no important advances, but like its predecessor it adopted a resolution in favor of another conference, to be held at Buenos Aires; thus the Government of the Argentine was authorized to fix the exact date for its convocation.[4] The Fourth Conference was consequently held at Buenos Aires in 1910, the interval between sessions being thereby reduced to four years. Notable in its accomplishments was the adoption of a set of regulations dealing with organization and procedure. Definite provision was made for the election and functions of the President and the other officers, for a Secretariat, for committee organization, methods of voting, rights and duties of members, and the like. Equally notable was the adoption of a resolution projecting a convention for the creation of a permanent Pan-American Union. It may be mentioned that the Union was set up a few years later, and has since constituted a valuable and helpful link between the rather infrequent plenary conferences.[5] Also, a fifth conference was

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3. For details of the Second Conference, see Proceedings, Second International Conference of American States, - Washington, D.C., 1902.

4. Special Handbook, op. cit., pp. 4-5.

5. Hill, Norman, The Public International Conference, Stanford University Press, 1929. p. 136

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fixed for 1914, but the outbreak of the War intervened, and it did not assemble until 1923. Of course, the Pan-American Conference system has continued to function and develop since the War, but its post-war history is a supplement rather than an antecedent of the League Assembly.

The second outstanding pre-war development of the conference system was exemplified in the Hague Peace Conferences of 1899 and 1907. Without going into a consideration of motives, it is sufficient for our purposes to know that the First Hague Conference was convened on the initiative of the Russian Government. Its membership was restricted to the Powers that maintained representatives at St. Petersburg, but there was no limitation as to the number of delegates that each of these States might send. As a result there was considerable inequality in representation (and consequently in influence), but, as was usual in international conferences, each State had but one vote. The agenda of the Conference was also worked out in the normal way, that is, the inviting Power took the initiative, and after an interchange of views between all the States invited, a final agenda was agreed upon. The invitations themselves were issued by the Government of the Netherlands, since the Conference was to meet on its territory. As was the case with all "ad hoc" conferences, the First Hague Conference had no continuous administrative agency at its disposal, so what preliminary preparations there were were made by the individual Governments, a special zeal being displayed by the initiating Government.[6] As for organization and procedure, the

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6. Hill, N., op. cit., p. 59.

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State responsible for the convening of the Conference was entrusted with the task of providing adequate and satisfactory regulations, which of course were voted upon by the entire conference at an early meeting. The rules adopted by the First Hague Conference indicate how far the conference system had developed by 1900. The permanent President was the first delegate of Russia, the initiating State, and the Foreign Minister of the Netherlands was made Honorary President. French was made the official language of the Conference. A secretariat for the whole Conference was provided, under the direction of a Secretary-General from the initiating State, and was to perform the general secretarial functions, such as receiving and circulating communications, translating speeches, reports and resolutions, drafting minutes, and the like. Of course each State brought in addition its own secretarial officials. Another important feature of the organization of this Conference was the adoption of the rule of secrecy of the proceedings of the sessions, but the President was authorized in his discretion to make communications to the Press. As to committees, the Conference organized but three, and in such a way as to give to each participating State some representation; but there was no equality, the membership of the three numbering respectively forty-six, sixty-seven, and fifty-nine. In regard to voting procedure, the rule of unanimity was specified for the plenary sessions, but the committees could, and did, make recommendations on a majority basis. For the rest, the regulations adopted dealt with minor matters, such as the definition of a quorum, the keeping of records, the verification

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of the credentials of the delegates, and the like.[7]

The actual accomplishments of the First Hague Peace Conference need not concern us here. Although it was quite successful, it was merely an isolated episode in the development of the conference system. It ended without making any provision for a later conference. Nevertheless, as the then Secretary of State of the United States, Mr. Root, said, in commenting upon the First Hague Conference, its most important accomplishment was that it made a second conference possible. At least it revealed the possibilities of the system, and as a result, enlightened opinion, especially in the United States, insisted on a continuance and a broadening of the practice inaugurated in 1899.

Chiefly because of this insistence, the Second Hague Peace Conference was convened in 1907. In general, it was organized in much the same way as its predecessor. A few improvements, however, were made. In the first place, the membership was very much broadened by the addition of the Latin-American States to the invitation list. Secondly, the rule of secrecy was reversed, and both the Press and the public admitted to the plenary sessions of the Conference. Thirdly, and very important, a step was taken in the direction of setting up a regular, periodic conference system, by the adoption of a resolution projecting a third conference, to be convened not later than 1915. In addition it was recommended that a preparatory conference meet previously, to work out the necessary preliminaries, and to function generally as an administrative agency of the regular plenary conference.[8]

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7. See- Proceedings of the Hague Peace Conference of 1899, New York, 1920. pp. 20 et seq.

8. Hill, op. cit., p. 47.

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The World War, of course, intervened, and nipped this proposed development in the bud.

Such was the stage reached by 1914 in the evolution of the general international conference system. The general imperfections which still demanded correction can by seen even from the above very general outline of the two outstanding pre-war applications of the system. First of all, the infrequency and consequent lack of continuity between sessions constituted a decided disadvantage. It is true that the Pan-American System had by 1914 developed some degree of regularity in the time of meetings, but the interval between sessions, about five years, was too great to allow of any real continuity. This was also true of the system inaugurated at the Hague, which was beginning to show promise of developing regularity when the outbreak of the War cut it short. In the same way, the infrequency of their sessions made the pre-war systems inadequate in an emergency situation, for no provision was made for the convocation of special sessions. Secondly, the need for preliminary administrative and fact-finding work was not adequately met in either of the two systems before the war. Each State had more or less to prepare its own data, thus adding to the possibility that national interests might predominate, and relevant facts withheld. Thirdly, only the beginnings of a satisfactory method of bringing the conferences together had been evolved. For instance, one State had to take the initiative in the convening of each of the Hague Peace Conferences. However, this imperfection would have been largely removed, had not the War put an end to the whole Hague Conference system. As was seen, the Second Conference had itself projected a third, so regularity was on the point of being established. The Pan-American system,

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as has also been indicated, had already outgrown this defect by 1914. Each conference made provision for the next, specifying when and where it was to be held. At any rate, it is clear, even keeping these imperfections in mind, that the international conference system had developed considerably beyond the embryonic stage in the years before the outbreak of the World War. What was to come after the War was of course to be influenced by that tremendous upheaval, but at the same time, it could not help but be colored and conditioned also by what had gone before. The steady flow of the stream of history was not to be denied, even by such a cataclysm as that of 1914-1918.

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CHAPTER II. The Assembly in the Peace Conference

Having now had a general view of the pre-war background, we can turn without further ado to the Paris Peace Conference, and trace the origin and development of the idea of an Assembly in that Conference, until it emerged finally as an integral part of the League system, embodied in the Covenant. As the World War continued, and grew into an ever more disastrous conflict, the public opinion of the world, under the leadership of President Wilson more than of any other single individual, clamored ever more loudly for some sort of international organization which would prevent the recurrence of such an upheaval as that of 1914-1918. From the very beginning of the War, and even before it, numerous plans and suggestions for an international organization to preserve peace and to promote cooperation had been made. But it was only in 1918, when it began to appear that the War would not last many more months, that the Governments of the Powers took any official interest. No doubt, the many private plans previously projected had some influence upon later developments; but we shall miss nothing of importance by beginning with the official documents, worked out under the auspices of the responsible Governments.

The first such document of any consequence was the Draft Convention of Lord Phillimore's Committee. This committee had been appointed early in 1918 by Lord Balfour, the British Foreign Minister, "to enquire into the various schemes for establishing by means of a League of Nations or other device, some alternative to war as a means of settling international disputes."[1] The Committee

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1. Miller, David H., The Drafting of the Covenant, New York, 1928. vol. 1, p.4.

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submitted its draft to Lord Balfour on March 20th, 1918. The primary purpose of the draft was admittedly the avoidance of war and the pacific settlement of international disputes.[2] To achieve this purpose, the draft envisaged among other things, a "Conference of the Allied States", which apparently was to come together only in case of a serious dispute or crisis, and even then, only if arbitration was not suitable or had failed.[3] It was to meet only on application by one of the parties to the dispute, was to be convened in a State to be decided later, by the Sovereign or President of that State, and under the presidency of his representative. It was to be a purely diplomatic conference, consisting of the diplomats accredited to the State "X", but the States might send other representatives if they wished. The Conference was given the right to regulate its own procedure, and to appoint committees to enquire and report, by simple majority vote. But the sole function attributed to it was the settlement of disputes, and the procedure prescribed was surprisingly similar to that later set down in the Covenant for the Council, in carrying out the same function.[4] Apparently, the Phillimore Committee had no conception of an Assembly of Nations as it actually developed later. The Conference for which they provided was to include only the Allied States; thus both the neutrals and the Central Powers were to be left out, and the Conference was probably to function solely as an agency to perpetuate the Allied victory.

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2. Miller, D.H., op. cit., vol. 1, p. 5.

3. Ibid., vol. 2, p. 3.

4. Ibid., vol. 2, pp. 4-5.

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The next official document, in chronological order, was the report of a committee appointed by the French Government to examine the conditions on which a League of Nations might be constituted. This committee presented its report on June 8th, 1918. The scheme contained therein provided for a League which very nearly approached the super-State conception. There were detailed specifications for military sanctions; in addition, and of more immediate concern here, there was prescribed an International Council, consisting of the heads of States or of their representatives, "having the power necessary to engage, by their votes, the responsibility of the State."[5] Apparently, this Council was to be a real world parliament, with plenary power to call into operation the sanctions specified. Further, this Council was to meet once a year, each meeting deciding the exact time and place for the next. Subordinate to the Council, there was to be a permanent Committee of Fifteen, appointed by the Council, and charged with the duties of preparing its work, summoning it, and preserving its archives. As in the Phillimore Draft, the chief function of the Council was to be the settlement of non-justiciable disputes. (An International Tribunal was to be set up for the settlement of Justiciable disputes.) The French plan, however, also gave to the Council the right "to maintain and develop the international judicial institutions created at the Hague, and to hand down, in case of need, international decisions of a nature to complete them."[6] Obviously, the French Commission envisaged a much

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5. Miller, D.H., op. cit., vol. 2, pp. 409-411.

6. Ibid., p. 409. (author's translation from the French.)

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more powerful League and a more authoritative Assembly, than the Phillimore Committee. It is to be noted, too, that the French plan did not restrict its Council to the Allied States. Only the Central Powers were to be excluded, and even they were to be admitted later, if and when they had changed their forms of government.[7] Of course, even as early as June, 1918, the core of the French conception of a League of Nations was the provision of sanctions. Later, in the League of Nations Commission of the Peace Conference, the French delegates made it plain that this was their primary concern.

Next in order came the draft of Colonel House, drawn up upon the request of President Wilson, and submitted to him on July 16th, 1918. House had the Phillimore Draft before him while he worked, and as a result there was considerable similarity between the two documents. So far as the Assembly was concerned, there was practically no difference between them. In the House Draft as in the Phillimore Draft, there was to be merely a diplomatic conference of the representatives of the Member States accredited to a particular capital to be specified later. Again like the Phillimore Draft, Colonel House's plan provided that the conference was to meet only when war was rumored or threatened, or when one Member informed the others, and they agreed, that a meeting was advisable in the interests of peace. As for procedure, the two drafts were practically identical. One difference of some importance, however, was that the House Draft did not restrict member-

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7. Miller, D.H., op. cit., vol. 2, p. 404.

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ship in the Conference to the Allied States.[8] In a general way, then, it can be said of the House Draft as of the Phillimore Draft, that the functions envisaged for the Conference of Delegates were very similar to those later actually given to the Council.

Shortly after Colonel House had submitted his draft to President Wilson, the latter drew up his own first version of a proper Covenant for the League of Nations. Although in many respects it foreshadowed provisions which were finally embodied in the Covenant, Wilson's first draft showed no more appreciation of the coming developments in regard to the Assembly than did those of House or of the Phillimore Committee. It practically took over verbatim the provisions of the House Draft in this respect, except for the fact that Wilson used the term "Body of Delegates" to designate the diplomatic conference.[9] This term continued in use until very nearly the end of the Peace Conference, when it was finally replaced by the term "Assembly".

During the next few months, the time and attention of the Governments were devoted almost entirely to the task of finally winning the War, so there were no significant developments in regard to the League of Nations. It was not until December 16th, 1918, that the next advance was made. On that date appeared the famous Smuts Plan, drawn up by General Jan C. Smuts, the Premier of the Union of South Africa at the time. According to David H. Miller, an adviser attached to the American delegation to the Peace

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8. Miller, D.H., op. cit., vol. 2, pp. 7-8.

9. Ibid., pp. 12-13.

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Conference, this plan had a profound influence on President Wilson, especially because Smuts was in agreement with Wilson on the point that the basic task of the Peace Conference was to set up a League of Nations.[10] That it played a leading part in the actual developments becomes clear from its most important provisions. For the first time the idea of a plenary Assembly and a separate smaller body, the Council, the latter to be under the control of the Great Powers, was broached, although Miller says that this idea had been "in the air" for several months.[11] At any rate from this time on the idea was generally accepted without further argument. The moving style as well as the content of the Smuts plan merits a rather lengthy quotation in regard to League organization:

"The general outline of the scheme to be adopted seems fairly clear. There will have to be a general conference or congress of all the constituent States, which will partake of the character of a Parliament, in which public debates of general international interest will take place. In this body all the States may be considered equal, and should vote as States, whatever the number of representatives a State may, subject to the rules of the conference, have delegated to that body. Besides the conference, there will have to be a small body called the Council, which will be the executive, and will carry on ordinary administration. The functions of the general conference will have to be carefully chosen, so as to make it a useful body.....

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10. Miller, D.H., op. cit., vol. 1, p. 35.

11. Ibid., p. 36.

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I would suggest that the initiative for the work of the conference should be left as much as possible to the Council. That work will consist mostly of the following: (a) general resolutions submitted by the Council for discussion in the Conference, which, when passed, will have the effect of recommendations to the national Parliaments, and have no binding legistative character; (b) general measures or codes of an international character dealing with questions like disarmament or world peace, or rules of international law which have been adopted by the Council, and which they desire to have publicly discussed in the Conference before being passed on for the approval of the national Governments; (c) discussion of the reports of the various international administrative committees or commissions working under the Council. It will be noticed that in all cases the resolutions of the Conference will only have the force of recommendations. Even so, however, the Conference may be a most useful body and may become a most powerful and influential factor in moulding international public opinion..... The representation of the States on such a Conference should be viewed largely from this point of view of educating public opinion in all constituent countries. The Powers should not grudge strong representation to the smaller States, as in any case the resolutions will only be in the nature of recommendations to the national Parliaments. Both the Governments and the Parliaments might send delegates, and perhaps even parties could be represented by the selection of members on the principle of proportional representation."[12]

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12. Miller, D.H., op. cit., vol. 2, pp. 39-41.

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But, Smuts continues, "the real work of the League will be done by its Council."[13] Thereupon, he sketches the organization of that body almost exactly as it is found finally embodied in the Covenant, except for the non-membership of the United States. To make the system complete, the Smuts plan also provided for a permanent secretariat and staff, and for various international administrative bodies, to deal with such subjects as health, the white slave traffic, and so forth.[14]

This, then, is the skeleton of the Smuts plan. That it provided a distinct advance in respect to organization is clear. That it exerted a profound influence on the actual organization of the League is equally clear. However, it neglected some very important aspects of the problem. In the first place it was not at all specific as to the time and place of the meeting of the General Conference or the Council. All that Smuts said on this matter was that both bodies should meet "periodically."[15] In the second place, he nowhere considers the problem of finances, which was one of real importance, as the history of any national governmental system would show. In the third place the Smuts plan ignored the question of organization of the General Conference in regard to officers, committees and the like.

The opening date for the Peace Conference was fixed at January 18th, 1919. A few weeks prior to this date, Wilson and the American delegation arrived in Paris. Other delegations,

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13. Miller, D.H., op. cit., vol. 2, p. 41.

14. Ibid., pp. 42-44.

15. Ibid., p. 45.

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notably the British, on which Smuts and Lord Cecil were included, also arrived before the 18th, and as a result closer contact between the American and British delegations was made possible. Wilson got hold of the Smuts proposals, and thereupon felt a renewal of the creative urge. The outcome was his second draft, which made its appearance on January 10th, 1919. Generally speaking, it was a combination of his first draft and the Smuts plan. It accepted the idea of a general conference, or "Body of Delegates", and a separate body, the Council, dominated by the Great Powers. Like Wilson's first draft, his second specified self-control by the Body of Delegates in matters of procedure and committee organization, and provided that a majority vote was sufficient in such cases. A very important addition, however, which was in neither Wilson's first draft nor in Smuts' plan, and which foreshadowed Paragraph 3 of Article 3 of the final Covenant, was the following: "It shall be the right of the Body of Delegates, upon the initiative of any Member, to discuss, either publicly or privately, as it may deem best, any matter lying within the jurisdiction of the League of Nations as defined in this Covenant, or any matter likely to affect the peace of the world." But this article (II) goes on: "All actions of the Body of Delegates taken in the exercise of the functions and powers granted to them under this Covenant shall be first formulated and agreed upon by the Executive Council", which was to be formed as Smuts had proposed.[16] This later qualification evidently would take away all the significance of the previous clause, and leave the bulk of power in the

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16. Miller, D.H., op. cit., vol. 2, p. 69.

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hands of the Executive Council. In two other respects involving the Assembly Wilson's second draft was new. First, in Article 4, it gave to the Body of Delegates the task of formulating plans for the reduction of armaments, and also of determining what military equipment would be fair and reasonable for each State in proportion to the scale of forces laid down in the program of disarmament. It was specifically stated, however, that the plans worked out would be only recommendatory.[17] Secondly, in Article 12, the Body of Delegates was given the power to admit new members into the League by a two-thirds majority vote.[18] It should be noted that this draft of Wilson's, like that of Smuts, neglected the problem of finances entirely, although unlike the latter it provided for committee organization, and for majority vote in procedural questions.

This second draft of Wilson was circulated among the members of the American delegation for their comments and suggestions. On the basis of these comments and suggestions, Wilson made some changes in his second draft, the changes appearing in his third. There was only one alteration in connection with the "Body of Delegates". The task of formulating plans for the reduction of armaments and of determining fair and reasonable amounts of military equipment for the States, in the form of recommendations to the States, was taken from the Body of Delegates and handed over to the Council, where it remained down to the final signature of the Covenant.[19]

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17. Miller, D.H., op. cit., vol. 2, p. 72.

18. Ibid., pp. 85-86.

19. Ibid., p. 99.

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In the meantime, two British papers made their appearance, first, the Draft Sketch of Lord Cecil (who had more to do with the evolution of the Covenant than any other member of the British Delegation), and second, the British Draft Convention. The former was dated January 14th, the latter January 20th. A comparison of the two indicates that the latter was merely a redrafting of the former, the only differences between them being in wording. As far as the Assembly was concerned these new British proposals filled the most important gaps in the plans previously drawn up. Article IV specified that a General Conference, composed of responsible representatives of the Member States, should be held from time to time as occasion might require,"and in any case at intervals of not more than four years."[20] This article at least attempted to answer the problem of the time of meeting for the plenary body. The Council, according to Article V, was to include only the Great Powers, and was to meet at least once each year.[21] Articles IX to XI provided for a permanent secretariat, under a "Chancellor" to be appointed by the Council. The secretariat was to perform all secretarial functions for both Council and General Conference.[22] Article XV provided an answer to the financial problem: "The expenses of the League other than those occasioned by the meetings of the Council of the League shall be borne by the States Members of the League in accordance with the distribution among the Members of the Postal Union of the expenses

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20. Miller, D.H., op. cit., vol. 2, p. 107.

21. Ibid., p. 108.

22. Ibid., p. 108.

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of the International Postal Bureau. The expenses occasioned by meetings of the Council shall be divided equally among the States represented on the Council."[23] According to this article, no organ of the League was to have financial supremacy. It left that issue still undecided. But at least it made some provision for finances, and was therefore an advance over previous proposals. One other article of the British proposals deserves mention, as the basis for paragraphs 9 and 10 of Article 15 of the final Covenant. It is Article V, Chapter II, and reads as follows: "In the event of any State represented on the Council or of any party to the dispute notifying the Chancellor within fourteen days after the demand for reference to the League that in its opinion the dispute is one which should be referred to the Conference, the Chancellor shall convoke a meeting of the Conference."[24] It was as a result of the insertion in the final Covenant of this same principle that the Assembly was able in March, 1932, to take over consideration of the Sino-Japanese controversy.

For several days after the circulation of these British proposals, there were conferences between Lord Cecil and Mr. Miller, the purpose being the formation of a draft agreeable to both the British and the American delegations, which could then become the basis of discussion in the committee to be appointed by the Peace Conference. Out of these informal conferences there emerged, on January 21st, the document known as the Cecil-Miller Draft. With respect to the position and organization of the Assembly, it con-

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23. Miller, D.H., op. cit., vol. 2, p. 109.

24. Ibid., pp. 110-111.

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tained nothing new. Rather, it merely combined the provisions in Wilson's latest draft and in the British proposals of January 20th. Article 1 specified that the Body of Delegates was to consist of the representatives of the Contracting Powers accredited to the capital to be chosen as the seat of the League. It also provided that meetings of the Body of Delegates should ordinarily be held at the seat of the League, but that they could be held elsewhere from time to time, as the Body of Delegates itself determined. Article 2 was practically identical with the provisions of Wilson's third draft dealing with procedure and the appointment of committees. It also followed the Wilson drafts in giving the Body of Delegates the right to discuss any subject within the jurisdiction of the League or likely to affect the peace of the world. Article 2a contained the provisions of the British proposals regarding the expenses of the League. Article 2b empowered the Body of Delegates to appoint commissions of study and investigation. Article 5 was identical with Article 5 of the British proposals mentioned above, and was concerned with the transfer of a dispute from the Council to the Body of Delegates. Article 12 repeated the provisions of Wilson's third draft dealing with the admission of new members into the League.[25] Evidently, therefore, there was no fundamental conflict of views between the two delegations most concerned with the founding of the League. The only question was one of getting all the essential provisions in the Covenant. As to the Council, the Cecil-Miller Draft followed the British proposals, specifying that only the five Great Powers were to have membership

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25. Miller, D.H., op. cit., vol. 2, pp. 131-140.

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in the Council.[26]

Although as we have just seen, there was no serious disagreement between the British and the American delegations regarding the composition and organization of the Assembly, or Body of Delegates, as it was still called, there were several points dealing with other League organs on which the two could not yet see eye to eye. Consequently, conferences were held, with Cecil and Smuts representing the British, and Wilson and House the American delegation. It was finally decided that Miller should meet with Mr. Hurst, the British legal adviser, and as far as possible agree with him on a new draft. The outcome was the appearance on February 2nd of the Hurst-Miller Draft, which became the basis of discussion in the League of Nations Commission of the Peace Conference. As regards the Assembly, there were no essential changes or innovations made in this document. Miller himself says in his "Drafting of the Covenant" that the provisions of the Cecil-Miller Draft having to do with the Assembly were, "without any material change in meaning but with the elimination of much superfluous language, recast and rewritten by Hurst in five articles; the result was a very great improvement in form; it made for simplicity, clear statement and brevity."[27] Likewise, no changes except in wording were made in the other articles dealing with the composition and organization of the organs of the League.

Speaking generally, it can be said that the lines to be followed in regard to the composition and organization of the Assem-

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26. Miller, D.H., op. cit., vol. 2, p. 132.
27. Ibid., vol. 1, p. 69.

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bly had been laid down before the League of Nations Commission even met. It was to be an advanced type of diplomatic conference, with regular but not very frequent meetings. It was itself to regulate its procedure, and appoint its committees, by majority vote. It was to be given the power of admitting new members into the League by a two-thirds majority vote. A secretariat was to be provided, to perform the secretarial duties required by the Assembly. The matter of expenses was taken care of, but no financial power was to be given to the Assembly. The possibility of the Assembly being given the task of settling international disputes was envisaged. Finally the Assembly was to be given the right to discuss any matter within the jurisdiction of the League, or likely to affect the peace of the world.

The important thing to be noticed in regard to these preliminary developments is the practically complete monopoly of two Great Powers, England and the United States. It cannot be said that the smaller States were uninterested or indifferent. In many of these smaller States, active discussion went on about the coming League of Nations, and numerous progressive suggestions were brought forward. These discussions, however, were given no official recognition by the Great Powers then conferring on the League system at Paris. The latter proceeded as they saw fit, and as a result the League, and even more especially the Assembly, were made less powerful than they undoubtedly would have been had the smaller States, neutral and otherwise, been given a greater voice in the proceedings.

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Meanwhile, the Paris Peace Conference had officially opened, on January 18th, 1919. On the 25th, due to Wilson's unalterable determination that the Covenant should be a part of the Peace Treaty, a Plenary Session of the Conference passed a resolution to the effect that a League of Nations was essential to promote international cooperation and to provide safeguards against war, that such a League should be created as an integral part of the Peace Treaty, and that for this reason a Committee should be appointed.[28] This was in accord with a decision taken by the Council of Ten three days previously. But in regard to the composition of the Commission, the Council of Ten had to change its mind. It was Wilson's idea to have a Commission on which only the Great Powers were represented draw up a draft, and then to have this draft presented to another Commission including representatives of the smaller States.[29] The latter, however, openly revolted against such a plan, and their revolt was to some degree successful. The Conference agreed to a Commission of fifteen members, two from each of the Great Powers, and one from each of five smaller States - Belgium, Brazil, China, Portugal and Serbia.[30] Even with this concession, however, the secondary States were not satisfied. They continued their demands for more adequate representation on the League of Nations Commission, and again they were successful. The Plenary Conference referred their demands to the Commission itself, and the latter, at its second meeting, on the

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28. Miller, D.H., op. cit., vol. 1, p.76.

29. Ibid., P. 83.

30. Ibid., Vol. 2, pp. 229-230.

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4th of February, voted to admit the representatives of four more States, Greece, Poland, Roumania and Czechoslovakia. This vote was taken in spite of the opposition of Wilson and Cecil, the count being nine in favor and six against the admission of the new representatives.[31] Thus the smaller States came to have very nearly equal power in the Commission with the Great States. This situation was to lead to important results, especially in connection with the composition of the Council. As was expected, Wilson became Chairman of the Commission.

Before the Commission held its first meeting the 3rd of February, President Wilson, not wholly satisfied with the Hurst-Miller Draft, turned out his own fourth draft, in the hope that it, rather than the Hurst-Miller Draft, would be accepted as the basis of discussion in the Commission. It was little changed from his third draft, at least in the provisions concerning the Assembly, or Body of Delegates. Why he was opposed to the Hurst-Miller Draft was not made clear. According to Mr. Miller, he merely said that he "didn't like it very much."[32] At any rate this last minute effort of the American President was not successful. At the first meeting of the Commission, in the afternoon of February 3rd, even with Wilson in the chair, it was voted that the Hurst-Miller Draft be adopted as the basis of discussion.[33] Also at this first meeting, the French and Italian delegations presented their draft schemes. That of the French has already

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31. Miller, D.H., op. cit., vol. 2, p. 256.
32. Ibid., vol. 1, p. 72.
33. Ibid., vol. 2, p. 231.

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been considered.[34] The Italian proposal was chiefly a statement of general principles, although it contained several unusual provisions concerning the Assembly. The first was in regard to voting; in the International Conference, every State was to have not more than three delegates, and one vote; any proposal passed by a majority of not less than two thirds was to be considered adopted in all cases except those otherwise provided for.[35] This was almost the reverse of the rule actually adopted, which specified that unanimity was to be required except where expressly provided otherwise. The second unusual feature of the Italian scheme had to do with the admission of new members into the League. The Assembly was to have nothing to do with the question. Any State desiring to join could make application, and if no member objected within six months, the applicant was to be admitted automatically. If there were any objections, the Council rather than the General Conference, as the Italian proposal called it, was to study the question and render a decision.[36] A third provision of the Italian draft, had it been adopted, would have given the Assembly a predominant position within the League. It was as follows: "The number of representatives on the Council may be increased at any time when the Conference deems such increase expedient, whether by reason of the adherence of a larger number of States to the Society of Nations, or for some other reason."[37] But, after its presentation as part of the Italian

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34. See above, pp. 11-12.

35. Miller, D.H., op. cit., vol. 2, p.248.

36. Ibid., p. 255.

37. Ibid., p. 255.

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draft at this first meeting, this proposal was not heard of again, even from the Italian delegation.

From February 3rd to 13th inclusive, the League of Nations Commission held ten meetings. During these ten meetings, the Commission went over the Hurst-Miller Draft, article by article, from beginning to end, then submitted it to a drafting committee, then went over the amended draft returned by that committee, also article by article, finishing the first phase of its work on the night of February 13th, in the form of the draft Covenant known as the Covenant of February 14th. It is unnecessary for our purposes to make a detailed study of the discussions in those ten meetings. An analysis of the Covenant of February 14th will show what amendments and additions were made concerning the composition, organization and powers of the Assembly. Article 1 specified that the action of the League under the terms of the Covenant should be effected through a "Body of Delegates" representing all the High Contracting Parties, an Executive Council, and a permanent Secretariat, to be established at the seat of the League.[38] So there was no change in this article. Article 2 provided for meetings of the Body of Delegates at "stated intervals" and from time to time as occasion might require. It also specified that each of the High Contracting Parties should have one vote, and not more than three representatives, at meetings of the Body of Delegates. This latter provision was new, and resulted from discussion at the ninth meeting of the Commission. At that time, M. Hymans of Belgium urged that a maximum number of representatives to be allowed to each

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38. Miller, D.H., op. cit., vol. 2, p. 237.

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State in the Body of Delegates should be fixed, on the ground that if no maximum were set, some ambitious States would send very large delegations, acquire undue influence, and besides make the Assembly too large and unwieldy, and thus promote dissension. Cecil, Wilson and Bourgeois all spoke on the other side, contending that a State's freedom to be represented as it chose should not be impaired. Orlando of Ttaly, however, backed Hymans, and after a further exchange of views, it was agreed to add the above provision limiting the maximum number of representatives allowed to each State to three.[39] Article 3 showed a very important change, having to do with the composition of the Council. Instead of that body consisting exclusively of representatives of the Great Powers, those of four other States were to be included. The selection of these four States was to be made by the Body of Delegates, on such principles and in such manner as it thought fit. This alteration was the result of the stubborn insistence of the smaller Powers, and can be regarded as a distinct victory for them.[40] Article 4 was a recasting of the last paragraph of Article 2 of the Hurst-Miller Draft, and provided for self-control, both for the Council and the Body of Delegates, in regard to procedure and the appointment of committees, and for majority vote in these matters. In addition, it contained the provision that the first meeting of the Body of Delegates and of the Council should be called by the President of the United States. This latter addition was made without debate, on the suggestion of Lord Cecil, as a mark of

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39. Miller, D.H., op. cit., vol. 2, pp. 299-301.

40. Ibid., pp. 259260; and pp. 301-302.

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appreciation to President Wilson.[41] Article 5 of the new draft Covenant was practically identical with Article 4 of the Hurst-Miller Draft. It provided for the Secretariat, and for the apportionment of expenses of the League in accordance with that of the expenses of the International Bureau of the Universal Postal Union.[42] Article 6 was Article 5 of the Hurst-Miller Draft. It was the exterritoriality article, and aroused no comment at all in the Commission. Article 7 of the draft Covenant, like Article 6 of the Hurst-Miller Draft, provided for admission of new members to the League by a two-thirds vote of the Body ofnDelegates. But in addition the former laid down certain conditions for admission, namely, full self-government, the giving of effective guarantees of intention to observe international obligations, and conforming to such principles as might be prescribed by the League in regard to naval and military forces and armaments. These conditions were added partially on the suggestion of Wilson (the self-government provision) and partially on the suggestion of Cecil.[43] The next article of the draft Covenant of concern to the Assembly was Article 15, which had been Article 13 of the Hurst Miller Draft. It left unchanged the procedure for transferring a dispute from the Council to the Assembly, with the exception that it added the proviso that the request for the transfer must come within fourteen days after the submission of the dispute. This proviso had been omitted from the Hurst-Miller Draft, although it

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41. Miller, D.H., op. cit., vol. 2, p. 260.
42. Ibid., p. 328.
43. Ibid., pp. 260-261 and p. 263.

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had appeared in earlier schemes.[44] Next, there was Article 24 in the Covenant of February 14th, which was entirely new. It had been adopted on the proposal of the British delegation, with little discussion. It provided that the Body of Delegates should have the right from time to time to advise the reconsideration by States Members of the League of treaties which had become inapplicable, and of international conditions of which the continuance might endanger the peace of the world.[45] Finally, there was Article 26, also new, which specified that amendments to the Covenant would take effect when ratified by the States whose representatives composed the Council, and by three-fourths of the States whose representatives composed the Body of Delegates.[46] This new article, like number 24, had been proposed by the British delegation, to fill another gap. According to the British proposal, however, amendments were to be valid after unanimous vote of the Council, and majority vote of the Body of Delegates. In other words, there was to be no need for ratification. The French and Italian delegates raised the cry of Super-State, and several delegates from smaller States proposed that a larger majority be required in the Assembly. Finally, on Wilson's suggestion, the article was made to read as above indicated, and then adopted.[47]

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44. Miller, D.H., op. cit., vol. 2, pp. 331-332.

45. Ibid., p. 228, and p. 335.

46. Ibid., p. 335.

47. Ibid., pp. 289-290.

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In summary of the work of the League of Nations Commission from February 3rd to 13th, it can fairly be said that, so far as the Assembly was concerned, it was not of fundamental importance. True, it gave the Assembly three new functions, the choice of the non-permanent members of the Council, the power to "advise" reconsideration of inapplicable treaties and dangerous conditions, and a part in the amending process. Further, it made certain provisions which had to do with the Assembly more specific, for example, in regard to the number of representatives to be allowed to each State. But in general it merely followed the general lines already laid down in the previous agreements between the American and British delegations. This was all the more to be expected in view of the further fact that these same two delegations took the most prominent parts in the meetings of the Commission, both as regards discussion and as regards the presentation of new proposals.

An interesting development during this period of the Commission's work deserves to be mentioned, although it made no progress at all. At Berne, an International Labor and Socialist Conference was held in February, 1919. At this conference, on the proposal of the delegation of the British Labor Party, the following resolution was adopted: "Representation in the central organ of the League shall be, not by delegates of the executive branches of the governments of the constituted States, but by delegates from the Parliaments, representing all parties therein, ensuring thus, not an alliance of cabinets or governments, but

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an union of peoples."[48] At the ninth meeting of the League of Nations Commission, on February 13th, General Smuts submitted a proposal obviously based on this resolution. It called for an extraordinary meeting, at least once every four years, of the Body of Delegates, which was to include representatives of national Parliaments, and other bodies representative of public opinion, in accordance with a scheme to be drawn up by the Council. Aside from Smuts himself no one on the Commission supported the idea. Cecil said it would be wiser to wait until public opinion expressed itself. Wilson very diplomatically stated that Article 2 was flexible enough as it stood to meet such a situation if and when the need arose. Besides, nations must be left free to choose their representatives as they wished. Several other delegates expressed their disapproval of the Smuts proposal, and that was the end of it. It was not formally withdrawn; neither was it put to a vote. It simply disappeared from the discussion, which then shifted to the question of how many representatives should be allowed to each State.[49] Curiously, it was not mentioned again throughout the remainder of the Commission's sessions, not even by Smuts himself. The reason probably was the obvious disapproval of the leading delegates in the Commission.

On February 14th, a Plenary Session of the Peace Conference was held, at which the text of the Covenant adopted by the Commission was presented. As Miller emphasizes, the Conference took no action whatever on the draft submitted to it. All

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48. Miller, D.H., op. cit., vol. 1, p. 273.

49. Ibid., vol. 2, pp. 299-300.

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that it did was to receive the document for examination and discussion by all the interested Powers.[50] In other words, it became the public property of the world, and for the next month it was the subject of comments and criticism everywhere. On the 14th of February, Wilson left Paris for the United States; on the 22nd of March, the eleventh meeting of the League of Nations Commission was held. In this interval, several developments of concern to the Assembly appeared. First of all, there was the suggestion of ex-President Taft, that unanimity be expressly required in both the Council and the Body of Delegates.[51] Secondly, there was the proposal of Senator Hitchcock to President Wilson that some provision be made by which a member of the League could, on proper notice, withdraw from membership.[52] Both of these American proposals, along with most of the others emanating from the United States, became the subject of a conference between Cecil and Wilson, after the latter had returned to Paris on March 14th. As a result of the conference the two leaders tentatively adopted a new article giving the right of withdrawal after two years, and also providing that if a Member State disapproved an amendment to the Covenant adopted according to the procedure laid down in Article 26 of the Covenant of February 14th, it should no longer be regarded as a member of the League. At this same conference Cecil brought forward the amendments proposed in Great Britain. The only one of any concern to the Assembly was that proposing

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50. Miller, D.H., op. cit., vol. 1, p. 270.

51. Ibid., p. 277.

52. Ibid., p. 276.

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that the Council should have the power to increase its membership subject to the approval of a majority of the Body of Delegates. Wilson agreed to this proposal without argument.[53] Thus a few more additions to the Covenant provisions concerning the Assembly were made by preliminary agreement between the two most interested Great Powers. It was also at this conference between Wilson and Cecil that Geneva was first tentatively decided upon as the seat of the League.[54]

On March 20th and 21st, a sub-committee of the League of Nations Commission held meetings with the representatives of thirteen neutral Powers to discuss the draft Covenant of February 14th. This sub-committee was made up of six members: Cecil, House, Bourgeois, Hymans, Veniselos, and Vesnitch. Various textual amendments were proposed, especially by the five most active States in this group of neutrals, namely, Switzerland, Holland, Norway, Denmark and Sweden. Although none of the amendments proposed had any results at the time, they are significant as showing the attitude of the neutral States towards the question of the position of the Assembly within the League. A typical proposal, made by Switzerland, is the following: "The Body of Delegates shall be competent (a) to make decisions referred to in Article 3 (concerning the choice of non-permanent members of the Council), 4 (procedure), 7 (admission of new members), 15 (settlement of disputes), and 24 (reconsideration of inapplicable treaties and dangerous international conditions); (b) to establish regulations

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53. Miller, D.H., op. cit., vol. 1, p. 281.

54. Ibid., p. 285.

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within the limits laid down in this Covenant, aimed to secure the execution of the Covenant. These regulations shall become compulsory for all members of the League as soon as ratified by three fourths of the States represented on the Council and three fourths of all the States Members; (c) to prepare conventions aimed to develop the law of nations and international organization."[55] One of the proposed amendments submitted by the Netherlands would have given the Body of Delegates the power to enact measures for the limitation of armaments which would have binding effect on all States Members.[56] One of the Norwegian proposals was even more typical of the neutral attitude: "The Body of Delegates shall be held each year at a time determined in advance. It shall determine by special conventions the rule of conduct between States, as well as the rules of future international law, subject to ratification by the States."[57] From this latter proposal it is clear from what source the idea for annual meetings of the Assembly came. It also becomes clear from these examples that the smaller Powers, and especially the neutrals, had a much higher conception of the proper position of the Assembly within the League than did the Great Powers who actually wrote the Covenant.

The final division of the work of the League of Nations Commission was performed between March 22nd and April 11th, 1919. During this period the Commission held its last five meetings,

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55. Miller, D.H., op. cit., vol. 2, p. 633.

56. Ibid., p. 637.

57. Ibid., p. 633.

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the eleventh to the fifteenth, and thus finished its difficult task. The procedure followed was the same as that used in the first ten meetings, namely, consideration of the Covenant, article by article, by the full Commission, reference to a drafting committee, to give proper form to the changes agreed upon, and then final reconsideration and approval by the full Commission. The changes and additions made in regard to the Assembly were chiefly those agreed upon by Wilson and Cecil in the previous week. Article 3 was amended to provide that the Council could, with the approval of a majority of the Body of Delegates, name either additional permanent or non-permanent members to the Council.[58] While this article (numbered 4 in the final Covenant) was under discussion, Hymans of Belgium spoke of the need for a more clear distinction between the functions of the Council and of the Body of Delegates. Cecil admitted that no clear distinction had been drawn in the text, but argued that it was preferable to leave the matter to solve itself after the League swung into action. Wilson supported Cecil's view, especially, he said, because he was unwilling to exclude any matter whatever from the consideration of the Body of Delegates. Mr. Hymans thereupon expressed himself as satisfied with the existing arrangements.[59] Article 4 was amended by the addition of the clause specifying the need for unanimity in voting, both in the Council and in the Body of Delegates, except where expressly provided otherwise.[60]

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58. Miller, D.H., op. cit., vol. 2, p. 338.

59. Ibid., p. 338.

60. Ibid., p. 339.

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The American proposal for the right of withdrawal after proper notice was, after much discussion, adopted as an amendment to Article 24 (the amendment Article), but was transferred by the Drafting Committee, so that it became Paragraph 3 of Article 1.[61] These amendments embodied the three agreed upon by Wilson and Cecil, which were of concern to the Assembly. Several other changes, of varying degrees of importance, were also made during these five final meetings of the Commission. Article 6 was altered to provide that the first Secretary-General should be the person named in the Protocol, and that his successors should be chosen by the Body of Delegates on the nomination of the Council.[62] This was in accordance with the desires of the smaller Powers. On the proposal of Larnaude of France an addition was made to Article 14, specifying that the Court to be set up might render an advisory opinion on any dispute or question referred to it by the Council or by the Body of Delegates.[63] In regard to Article 15, an important addition was made on the proposal of Lord Cecil, to ensure greater accuracy. It provided that, for a recommendation of the Assembly, in a dispute transferred to it, to have the effect of a unanimous recommendation of the Council, such recommendation must be supported by all the States represented on the Council, and a majority of the other States represented in the Assembly, exclusive in both cases of the parties to the idspute.[64]

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61. Miller D.H., op. cit., vol. 2, pp. 359-360.

62. Ibid., pp. 339-340.

63. Ibid., p. 349.

64. Ibid., p. 350.

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Also, the Drafting Committee finally replaced the term "Body of Delegates" with the name "Assembly", and the change was accepted by the Commission without argument.[65] One other change of some importance was made in regard to Article 25, the article having to do with the amendment of the Covenant. On the insistence of the Brazilian delegate that the procedure specified was inconsistent with his country's constitution, an addition was made to the article providing that "no such amendment shall bind any Member of the League which signifies its dissent therefrom; but in that case it shall cease to be a Member of the League."[66] Finally, the Drafting Committee made several changes in the order and numbering of the articles, so that the draft which it presented to the Commission at its fourteenth meeting was practically identical with the final Covenant, at least in so far as the powers and position of the Assembly were concerned. On April 28th, the Covenant was presented to the Plenary Conference, a few speeches were made, including a specially brilliant one by President Wilson, and the Covenant was adopted, ready for insertion in the Treaty of Versailles, which was finally signed on June 28th, 1919.[67]

It might be well at this point to retrace our steps somewhat, to analyze in a general and summary way the developments concerning the Assembly, up to the final signature of the Peace Treaty in June, 1919. The most conspicuous fact seems to

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65. Miller, D.H., op. cit., vol. 2, p. 672.

66. Ibid., p. 387.

67. Ibid., p. 719.

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be the predominance of the two Great Powers, the United States and Great Britain, in working out the Covenant. The French delegation was primarily interested in getting powerful sanctions into the Covenant, and when that proved impossible, the French became lukewarm to the whole idea of a League of Nations. Italy and Japan, the two other Great Powers concerned, played a minor role from the beginning. The small States, it is true, were very much interested, especially in the position of the Assembly within the League. It must be admitted that their insistence did succeed in bringing about several important changes and additions, most notably in connection with the composition of the Council. But in the last analysis it seems fair to say that the Covenant, as inserted in the Treaty of Versailles, contained no more and no less than the two Great Powers mentioned above were willing that it should contain. This is undoubtedly true in so far as the Assembly is concerned. In fact, even before the League of Nations Commission had ever met, the essential provisions regarding the powers and composition of the Assembly had been agreed upon by the representatives of Great Britain and the United States. A comparison of the Covenant as contained in the Treaty of Versailles with the Hurst-Miller Draft, the last Anglo-American sketch before the League Commission met, will bear out this statement.

The Articles of the Covenant which have to do with the Assembly are Articles 1, 2, 3, 4, 5, 6, 7, 11, 14, 15, 19, and 26. Article 1 provides, among other things, for the power of the Assembly to admit new Members into the League, under certain conditions and by a two-thirds majority. This was Article 6 of

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the Hurst-Miller Draft. Article 2 merely specifies that the action of the League shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat. Article 3 has to do with the organization of the Assembly. It is to consist of representatives of the Member States, is to meet at stated intervals and from time to time as occasion may require, at the Seat of the League or at such other place as may be decided upon. At its meetings, each State is to have one vote, and not more than three representatives. Further, it may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world. In essentials, the provisions of this Article of the final Covenant are contained in Articles 2 and 3 of the Hurst-Miller Draft, except for the limitation to three representatives, which, as seen above, was added by the League Commission, on the proposal of a smaller State. Article 4 gives the Assembly a function not foreseen in the Hurst-Miller Draft, namely, the election of the non-permanent members of the Council, and the power to approve by majority vote an increase in the size of the Council. But, it should be noted, the initiative of the Council, in regard to any increase in its size, is explicitly preserved. Article 5 is also partly new, but only because it was taken for granted in the earlier plans. It specifies the need for unanimity in both Council and Assembly except where the Covenant expressly provides otherwise. Further, Article 5 provides for majority vote in regard to procedure and the appointment of committees. This was Paragraph 4 of Article 2 of the Hurst-Miller Draft. Article 6 has to do with the Secretariat and the apportionment of League expenses.

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It was Article 4 in the earlier draft, with one minor exception: in the Covenant, the successors to the first Secretary-General (named in the Protocol) are to be appointed by the Council "with the approval of a majority of the Assembly". This was a new function, given to the Assembly on the suggestion of the smaller Powers. Article 7 provides diplomatic immunity for representatives and officials of the League while they are engaged on League business. This was Article 5 in the Hurst-Miller Draft, and is of relatively little importance for the Assembly. Article 11, paragraph 2, of the Covenant declares that it is the friendly right of any Member of the League to bring to the attention of the Assembly or of the Council any circumstance affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends. This was Paragraph 2, Article 9, in the Hurst-Miller Draft. Article 14 provides that the Permanent Court may render an advisory opinion on any dispute or question referred to it by the Council or by the Assembly. This had no counterpart in the earlier draft, having been added in the Commission on the proposal of the French representative. Article 15 contains the procedure for the transfer of a dispute from the Council to the Assembly. It was also contained in the Anglo-American draft, in Article 13, and in nearly the same words. Article 19 gives the Assembly the power to advise reconsideration of inapplicable treaties and of international conditions whose continuance might menace the peace of the world; this also was an addition made by the League Commission, but it has proved more or less meaningless in actual practice. Finally, Article 26 has to do with the process of amending

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the Covenant; it too originated during the discussions of the League Commission, and had no counterpart in the Hurst-Miller Draft. Even so, however, this last addition was made on a British proposal, indicating that its absence in the earlier draft was due to oversight rather than to opposition. What is more important, the process prescribed had nothing directly to do with the Assembly; it merely specified that amendments would come into force when ratified by the States whose representatives composed the Council, and by three-fourths of the States whose representatives composed the Assembly.

It is obvious, then, from this comparison of the Hurst-Miller Draft with the final Covenant, that all the essential provisions in the latter which had to do with the Assembly had been agreed upon first by the delegations of Great Britain and the United States. This fact is not emphasized in any derogatory sense. There can be no doubt that both these delegations were sincerely interested in establishing a sound League. But, with their Great Power position and background, their attitude towards the League as a whole, and towards the relative positions of its various organs, was inevitably calculated to make for a League that was none too powerful, and more especially, for an Assembly that was relatively insignificant, beside the Council.

This leads us to the second outstanding characteristic of the developments concerning the Assembly which took place in the Peace Conference. When the Covenant was finally completed, it contained surprisingly little on the Assembly, in comparison with the Council. The provisions having to do with the Assembly provide a bare skeleton of organization and composition, and as

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for functions explicitly given to the Assembly, the only ones are the admission of new Members into the League, the election of the non-permanent members of the Council, the approval of the Council's choices for successors to the first Secretary-General, and the advising of reconsideration by the States of inapplicable treaties and conditions likely to threaten world peace. No regular time or period of frequency was established for the meetings of the Assembly. Its relations to the Council were left very vague and general. A person judging the League in 1919, solely on the basis of the provisions of the Covenant, would necessarily have concluded that the Great Powers, who had written the Covenant, were not greatly interested in the Assembly, and that as a consequence that body would play a decidedly minor role in the future activities of the League. For the person judging in 1934, however, on the basis of actual developments since 1920, the conclusion reached is considerably different. Our next concern, therefore, before we turn to the questions of actual organization and procedure, will be to determine the position of the Assembly within the League, not only as set up in the Covenant, but as it has practically turned out to be.

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CHAPTER III. The Position of the Assembly within the League

1. Nature and General Organization of the League.

Before the position of the Assembly within the League of Nations can be properly analyzed, it is necessary to know at least in a general way what the League is, and to have some understanding of its various organs, to know how these organs are formed, and what are their main functions.

There seems to be fairly general agreement among students of the League as to its essential nature, although they do not always express their ideas in the same terms. John S. Bassett has this to say on the subject: "It is undoubtedly true that the League is now a loose group of sovereign units, no one of which governs it, and each of which has a voice in its control. By the very rule of 'Corporate integration' in social matters, distinct units brought into association begin to develop an entity that is distinct from its parts and from the sum of them. So there is growing up a League entity, distinct from any State in the League and with a life of its own."[1] Felix Morley, in his recent volume on the League, puts it in these words: "The League today is not a federation, but a confederation of independent nations..... The essential difference between a confederation and a federation lies in the fact that the former is not a State, either in law or in the psychological attitude of its free members towards the organization. Without laboring the point, it may be pointed out that the right of denunciation is expressly stipulated by Article

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1. Bassett, J.S., The League of Nations, N.Y., 1928. p. 375.

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One (3) of the League Covenant. Such a right would be out of place in a federal union..... But, the League is very inadequately defined by calling it a confederation of nations unless we simultaneously consider its tendency to further world-wide functional association side by side with inter-State political cooperation".[2] Edmund C. Mower, in his "International Government", comes to this conclusion: "The League is not a new political entity, nor has it any definite political personality. Rather is it merely a device by which certain nations have undertaken to cooperate in their efforts to solve some of the problems which they have in common. It is therefore a method of collaboration."[3] Dr. Pitman B. Potter, of the "Institut de Hautes Etudes" in Geneva, concludes: "The system created by the Covenant is comprehensive and symmetrical, complete and adequate in range and scope. The historical institutions of international government -- diplomacy, treaty negotiation and arbitration -- are gathered together and carried forward into the future in close coordination one with another, and with a new system of conferences and congresses, more ample and more comprehensive than anything in existence before."[4] Professor William Rappard, head of the same Institute, and one of the deepest students of the League, reaches this conclusion: "The present League is not a super-State; so much is clear. Nor is it a true confederation of States, except possibly a very loose one. It is, in theory at least, if not in practice, an

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2. Morley, Felix, -- The Society of Nations, Washington, D.C., 1932. pp. 598-599, and p. 608.
3. Mower, Edmund C.,- International Government, N.Y., 1931, p. 402.
4. Potter, Pitman B. - An Introduction to the Study of International Organization, N.Y., 1928. p. 299.

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alliance against the outside world. And in fact it is undoubtedly a continuous international conference, and a very effective public forum."[5] Sir John Fischer Williams, has this to say: "The authors of the League were constructing, for the first time on any great scale, a thing in international law analogous to the body corporate in municipal law..... A body corporate in municipal law is not the simple result of surrender of power, rights and duties by the corporators; the new personality results in law from the act of the State..... Even so in international law, the concurrent wills of the interested States make the League..... The League resembles a company all of whose shareholders are themselves bodies corporate, whose board of directors is composed of nominees of certain shareholders, and whose general meeting is filled by persons holding proxies for the actual shareholders.....Permanence is the essence of the League, and the requirement of permanence in matters international as in matters municipal, is best satisfied by the institution of corporate personality..... The League is a new collectivity in a society of collectivities, and it possesses a mind, a will and a strength which are its own."[6]

Mr. L. Oppenheim, the eminent international lawyer, comes to this conclusion: "If looked upon without prejudice, the League appears to be a league absolutely sui generis..... In its essence it is nothing else than the organized Family of Nations. Not being a State, and neither owning territory nor ruling over citizens, it does not possess sovereignty in the sense of State sovereignty."[7]

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5. Rappard, William E. --The Geneva Experiment, London, 1931, p. 114.
6. Williams, John F.- Chapters on Current International Law and the League of Nations. N.Y., 1929. pp.480-500.
7. Oppenheim, L.--Treatise on International Law, 4th edition, N.Y.,1928. vol. 1, pp. 320-322.

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From all the above quotations, with the possible exception of Bassett, it would seem that there is general agreement that the League of Nations is not a new political entity, having an existence and a will separate from that of the Member States. This view appears to be essentially correct. Although it has some of the characteristics of a State, such as a constitution, various agencies for the carrying out of its functions, land and buildings, it does not have the essential ones, namely, the power of coercion, of taxation and the like. True, League officers have diplomatic status, but so also did the delegates to the Hague Conferences, without constituting those bodies as new political entities. Also, the League as such can enter into agreements as a corporate personality, for the purpose, for instance, of purchasing property, or borrowing money. It is in this respect that the League most closely resembles the corporation; it is to some extent a "persona ficta", possessing corporate powers. But this is true only in a very limited sense; in essentials, the League has none of the marks of a real political personality. None of its Members can be compelled to do or to refrain from doing anything against its will. In other words, the League has no will except the sum of the wills of its Member States. It can do nothing, if just one State persists in obstructing. Admittedly, as a mechanism, the League tends to promote international agreement and cooperation more successfully than the pre-war system, by reason of the fact that it is a very much improved mechanism. And one State might find it extremely difficult to withstand the united opinion of all the others, for the League, through its access to world public opinion, is undoubt-

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edly the most efficient mechanism thus far developed to bring moral pressure to bear on a recalcitrant State. But the League remains no more than a mechanism, a "method of collaboration", as Mower calls it. The Member States remain free to use it or not, as they see fit. Of course, by ratifying the League Covenant, they have undertaken certain new obligations, such, for instance, as the obligation of Article 10 to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League, or the obligations of Article 16 to employ economic and military sanctions against a Covenant-breaking State. But, it is clear, these obligations were not dictated to the Member States by any organism above them; they were accepted by the Member States acting of their own free will. More important, as illustrating the true nature of the League is the question of enforcement of these obligations. The League has no power of enforcement. If there is to be any enforcement at all, the Member States themselves are to carry it out, the sole function of the League organs being to recommend methods. In other words, these various obligations could have been undertaken by the several States, in exactly the same degree as they were undertaken in the Covenant, without creating what is known as the League of Nations at all. They have no bearing whatever on the question of the essential nature of the League.

Nothing organically new, therefore, was created by the Covenant. It did not involve the adoption of any new principle of international organization. Rather, the League system is merely a coordination, an adaptation, of the system in existence before the World War. This pre-war system had developed along

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several main lines, each of which is found, in an improved form, in the League system. The international administrative function was best exemplified in the era before 1914 by the Universal Postal Union. In the League system, it is found in the Secretariat and the technical organizations. Before 1914, a rather loose system of guarantees had been developed, as for instance in the cases of Belgian and Swiss neutrality. In the League system, the principle of guarantees was made general, and is contained in Articles 10 and 16. Also before the war, there had grown up a more or less unsymmetrical system of conciliation and arbitration. By the Covenant, the system of pacific settlement of international disputes has been unified and brought together into one system. It is contained in Articles 11 to 15 inclusive. Again, in the years before 1914, an irregular and hazy concert of the Powers performed a sort of directive function in international affairs, especially as they concerned Europe. This concert idea has been carried over into the League system, and is exemplified in the Council. Finally, the pre-war era had developed an international conference system, which has its League counterpart in the Assembly.

Essentially, then, the League of Nations is not a new departure. It does not involve a radical breaking away from the past; on the contrary it is intimately related with the past. The League system merely represents the most recent in a related series of steps, taken by the sovereign members of the family of nations, and aiming at an international organization adequate to fill the needs of modern international society. These needs are aptly stated in the Preamble to the Covenant: "to promote inter-

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national cooperation and to achieve international peace and security." The organs created within the League, and designed to meet these needs, are the technical and advisory commissions, the Secretariat, the Council, the Assembly, and two "autonomous" bodies, the International Labor Office, and the Permanent Court of International Justice. A brief analysis of each of these is necessary before the position of the Assembly within the League can be properly determined.

The Assembly is the representative body of the League. It is made up of all the League Members, and in it they are all equal, having but one vote, and the right to no more than three official representatives. However, as we shall see later, the practice has grown of sending very large delegations, including substitutes, advisers, experts, and so on, as well as the three official representatives, to Geneva for the annual meetings of the Assembly. The entire delegations are chosen by the national Governments, by whatever method the Governments see fit to use. Each delegation votes as a unit, and acts generally only upon instructions from its home Government; this indicates that the Assembly is not a real legislative body, but rather a diplomatic conference. This indication is further borne out by the rule of unanimity specified in Article 5 of the Covenant. Several exceptions, however, are explicitly made to the unanimity requirement, especially as regards procedure and the appointment of committees. As indicated above, the Assembly meets in regular session once a year, usually early in September. This very important development was not prescribed by the Covenant, but was decided by the First Assembly itself, and embodied in its Rules of Procedure.

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As far as the powers of the Assembly are concerned, those specifically granted to it by the Covenant have already been explained, and those which it has itself assumed in the course of its development will be treated in detail later.

The chief difference, from an organizational point of view, between the Assembly and the Council, lies in the more limited membership of the latter. As originally constituted, the Council was to be the special preserve of the Great Powers; it was to be composed of the five Great Powers, and four minor Powers chosen by the Assembly. But from the very beginning, due to the abstention of the United States, this aim of the Great Powers was thwarted. Since 1920, moreover, there have been three enlargements of the Council, each increasing the proportion of smaller Powers in that body (1922, 1926, and 1933). So, as now constituted, the Council can hardly be called the special stronghold of the Great Powers.

The Council meets in regular session three times each year (four times until 1929) to carry out its functions. It can also meet anywhere and at any time in extraordinary session, when the international situation makes such a meeting necessary. As for voting, the same principles apply in the Council as in the Assembly, that is, unanimity except where expressly provided otherwise in the Covenant. The powers, or more exactly, the functions, given to the Council are rather varied. In the first place, it is given certain executive functions, such as the administration of Danzig and the Saar Territory, and the supervision of the mandates system and the minorities treaties. In the second place, it is empowered to function as an agency of conciliation

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in regard to international disputes which are not settled by arbitration or judicial settlement. In addition the Council is given various other functions in connection with reduction of armaments, the creation of the Permanent Court, and the application of the sanctions provided in Article 16. In none of these cases, however, has the Council been given final and coercive power, except where there is question merely of the internal competence of the League. For instance, the Council has the final word in appointing Secretariat officials. But in all cases where action by the Member States is involved, the Council merely "advises or recommends", final decision resting with the Members themselves. Further, the Council is given the same power as the Assembly to "deal with any matter within the sphere of action of the League or affecting the peace of the world." Finally, in the words of Howard-Ellis, "the role of the Council as regards international cooperation is simply to keep in touch with the work of the subsidiary organizations and see that they keep on the lines laid down by the Assembly within the framework of the Covenant."[8]

The international administrative function is provided in the League system chiefly in the Secretariat. A detailed description of the organization of the Secretariat is unnecessary here. Suffice it to say that it is a permanent staff of officials maintained at Geneva, under the direction of a Secretary-General, who is probably the most powerful and influential single individual in the entire League system. The natural development within the League, as well as in practically every national Government, has been for the civil service, especially in its upper branches,

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8. Howard-Ellis, C. - The Origin, Structure and Working of the League of Nations, N.Y. 1928. p. 157.

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to assume more and more of the executive function, in addition to the bare administrative function.[9] The activities of the League Secretariat cover practically every main subdivision of League activities. For instance, the eleven sections into which the Secretariat is divided furnish an accurate general catalogue of League activities: Political, Information, Legal, Administrative Commissions and Minorities, Economic and Financial, Mandates, Communications and Transit, Disarmament, Social Questions, Health, and International Bureaus.

Finally, as a direct part of the League system, there are the various commissions and advisory committees, which can best be described collectively as the technical organizations. The purpose of these organizations is to aid the League in promoting and prosecuting various lines of international activity which require expert advice and assistance. The membership of these bodies is in each case appointive by the Council or by the cooperating Governments with the sanction of the Council. The relationship between the Assembly and the technical organizations will be analyzed later. Their relationship with the Secretariat is very intimate. Each section of the latter, as outlined previously, is attached to one of these commissions or committees, to serve as its own particular secretariat. Without this help from the Secretariat the technical organizations undoubtedly would have been unable to accomplish what they have, for, unlike the Secretariat, which is at work all the time, the committees and commissions are periodical, meeting only several times during the

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9. See, for example, Morley, F., op. cit., pp. 305-325.

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year. In a rough way, the relationship between the various technical organizations and the other League organs can be compared to that existing between the ministries and the other departments of a national Government.

In addition to the organs just described, which are directly and immediately parts of the League system, there are two other agencies, known as "autonomous organizations", to which the Assembly is in some degree related. They are the International Labor Organization and the Permanent Court of International Justice.

No detailed explanation of the organization and working of either body is necessary for our purpose. The Labor Organization, like the League itself, was set up by the Treaty of Versailles, to satisfy the growing demand of public opinion in all countries for the recognition of the rights of labor in the peace settlement. The machinery of the Labor Organization is similar to that of the League. It has a General Conference, which corresponds to the Assembly, a Governing Body corresponding to the Council, and a Labor Office corresponding to the Secretariat. The most outstanding difference between the League and the Labor Organization is in the character of the representation of States in the Conference and in the Governing Body. Instead of a delegation of government representatives exclusively, each State is entitled to send two delegates representing the Government, and one each representing the employing and the employed groups. Moreover, each delegate votes individually; thus division is apt to be along class lines rather than along national lines. The chief connection between the Labor Organization and the League is in the matter of finances, which will be considered more fully later.

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The Permanent Court of International Justice was set up in accordance with Article 14 of the Covenant, which entrusted the Council with the task of formulating plans for such a Court, and of submitting these plans to the Members of the League for adoption. The Council carried out its task in 1920, and the Statute of the Court received sufficient ratifications to come into force in 1921. The chief characteristics of the Court are its permanence and its wide potential jurisdiction: "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 14 of the Covenant). Its connection with the League, and especially with the Assembly, will be considered more fully below.

2. Relationship between Assembly and Autonomous Organizations.

As we have seen above, the International Labor Organization, though organized at the same time as the League, and though located at the same place as the League, is still practically independent of the League, having its own separate organs, its own buildings, and so forth. But there is one very important connection, the potential effects of which have not been generally recognized. This is the financial connection. Article 399, PartXIII of the Treaty of Versailles, which has to do with the International Labor Organization, reads as follows: "Each of the Members will pay the traveling and subsistence expenses of its Delegates and their advisers and of its Representatives attending the meetings of the Conference or of the Governing Body, as the case may be. All the

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other expenses of the International Labor Office and of the meetings of the Conference or Governing Body shall be paid to the Director by the Secretary-General of the League of Nations out of the general funds of the League. The Director shall be responsible to the Secretary-General of the League for the proper expenditure of all moneys paid to him in pursuance of this Article."[10]

This article, when read in connection with the original fifth paragraph of Article 6 of the Covenant, apparently establishes no connection whatever between the International Labor Organization and any organ of the League. Article 6, Paragraph 5 of the Covenant as originally adopted read: "The expenses of the Secretariat shall be borne by the Members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union." Judging solely on the basis of the constitutional requirements, then, one could quite reasonably conclude that the independence of the International Labor Organization was to remain complete. Apparently, the procedure would be along these lines: the Director of the Labor Office would draw up the budget for his organization, and present it to the Secretary-General of the League; the latter would then pay to the Director the amount specified, out of the funds acquired by the League in accordance with the method set up by Article 6 of the Covenant. Such a procedure would meet all the constitutional requirements. But it was never the procedure employed. The First Assembly saw to that.

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10/ For Part XIII of Treaty of Versailles, see Mower, op. cit., Appendix B, pp. 703 et seq.

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The assumption of final financial power within the League by the First Assembly can be explained at this point as well as at any other. It is not to be concluded, however, that this action of the Assembly altered merely the relationship between the League and the International Labor Organization; on the contrary, it changed, potentially at least, the whole League set-up, placing the Assembly from the start in a key position.

Chronologically, the Council was the first League organ to exercise financial authority. This was due to the fact that for more than a year before the first session of the Assembly, the Council and the Secretariat had been active, and considerable League funds, in the form of advances from the British and French Governments, had been spent. At the fifth session of the Council in May 1920, that body adopted retroactively the budget for the first financial period, which it established arbitrarily as from May 5th, 1919, to March 31st, 1920. At the same time it adopted the estimates drawn up by the Secretariat for the three months of April, May and June, 1920. But the Council itself evidently did not expect to become the financial power within the League. This is apparent from a sentence in the adopting resolution:"That the salaries provisionally allotted by the Secretary-General be approved by the Council, until the budget has been confirmed by the Assembly."[11] Again, at its eighth meeting, on August 2nd, 1920, the Council retroactively adopted the budget for April, May and June, and approved the estimates for the second financial period, July 1st to December 31st, 1920. At the same time it adopted, as

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11. Official Journal of the League of Nations, 1920, # 4,pp.142-4.

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Article 11 of its own Rules of Procedure, a resolution indicating its ideas as to the relative position of the Council and the Assembly in regard to financial control. The resolution was as follows: "The Council will present, as soon as possible, the draft budget it has approved, together with its report, for final approval by the Assembly. Should it be impossible to obtain in time the final approval of the budget by the Assembly, the Council may declare the budget it has passed applicable and effective from the beginning of the year, pending approval by the Assembly. This approval must be applied for as soon as circumstances permit."[12] Evidently the Council was willing that the Assembly should have the final word on the budget, subject, however, to the condition that the Council itself should possess sufficient power to proceed even though the Assembly might prove obstructive. In such a case, the final Assembly approval would be merely retroactive.

The First Assembly wasted no time in settling definitely the question of financial control within the League. One of the items on its agenda was: "the first and second budgets of the League, covering the period to December 31st, 1920, and provisional estimates for the 1921 budget." This item had been included by the Council provisionally, and accepted by the Assembly.[13] At its second meeting, the Assembly voted the creation of a committee on "Financial Organization", and ever since, Committee Four has been entrusted with questions relating to League finances.[14] In the

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12. Official Journal for 1920, #5, pp. 272-274.

13. Records, First Assembly, Plenary Meetings, pp. 2-3.

14. Ibid., pp. 64-66.

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meetings of this Fourth Committee of the First Assembly, the foundations of Assembly control were well laid. First of all, it adopted, retroactively, the budgets for the first and second financial periods, thus indicating its belief that such adoption by the Assembly was finally necessary.[15] At the same time, it decided to recommend to the Assembly approval for the general budget for 1921, adding further emphasis to the same indication.[16] In addition, after considerable study and discussion, it adopted, for recommendation to the Assembly, a report containing thirteen provisional rules for the financial administration of the League. Article 12 declared categorically: "The Assembly shall finally pass the accounts for expenditure and income."[17] At the twenty-ninth plenary meeting, the Fourth Committee presented its report and proposed resolutions to the Assembly, which adopted them with little discussion. In presenting the report, Sir George Foster (Canada), Rapporteur of the Committee, summarized what had been settled in regard to financial control: "In the first place, all expenditures are to be authorized by the Assembly. The Assembly in this case holds the purse strings as the representatives of the Governments whose delegates the Assembly are. No expenditures, therefore, can be undertaken except on the authorized vote of the Assembly, or according to instructions given by the Assembly. Once the estimates are voted and instructions given by the Assembly, expenditure then becomes possible in the different organizations..... Expenditure in

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15. Records, First Assembly, Minutes of Fourth Committee Meetings, p. 43
16. Ibid., p. 43.
17. Ibid., p. 63.

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each case is governed by the wording of the item itself. The item is definite as to amount and purpose for which it should be expended, and it is under these precise indications as approved by the Assembly that all expenditures have to be made, whether they be by order of the Council or the Secretary-General. All receipts and expenditures are to be subjected to annual audit..... and that audit, with its recommendations and explanations and remarks, goes to the Assembly with the accounts, and these accounts, once audited, are to be passed finally by the Assembly itself."[18] This quotation makes sufficiently clear the far-reaching significance of the decision of the First Assembly. Without any explicit authorization from the Covenant, the Assembly assumed complete and final control of the disposition of the funds of the League. The details of this control will be considered later, in connection with the question of financial administration of the League. It is enough for the present to know that that control assumed in 1920 has continued, and even increased, down to the present day.

We can now return to the International Labor Organization. The financial control assumed by the First Assembly meant, if it were to be complete, that no League funds could be paid over to the International Labor Organization without the approval of the Assembly. To put it another way, the budget of the International Labor Organization had to run the gauntlet of examination and criticism by the Assembly. This gave rise to a further question; should the examination of the budget of the Inter-

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18. Records, First Assembly, Plenary Meetings, p. 677.

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national Labor Organization in the Fourth Committee and in the Assembly be merely a formal, summary proceeding, the budget being hurried through and approved just as it was presented by the Director, or did the Assembly have real power, and the right to examine the budget of the International Labor Organization in detail, and to strike out or reduce items which it regarded as undesirable or as too high ?

M. Albert Thomas, the first Director of the Labor Office, made a noble attempt to have this question answered to his satisfaction. His attempt took the form of presenting merely a lump-sum budget estimate of 7 million francs, with no detailed subdivisions, for approval by the First Assembly. But his attempt was to be a complete failure. A veritable storm of criticism, some of it not very polite, met him in the Fourth Committee, where he appeared to defend his budget; and a myriad questions were hurled at him by suspicious delegates. The result was that M. Thomas promised to draw up his budget in the future in the form "most satisfactory" to the Assembly and the Fourth Committee. But he warned the delegates that "the doctrine of control by the Assembly should not be pushed too far, since it might lead to great inconvenience."[19] This warning also fell upon deaf ears. In the report of the Fourth Committee, which was adopted by the Assembly as seen above, there appeared this clause: "According to Article 399 of the Treaty of Versailles and similar stipulations in the other treaties of peace, the expenses of the Labor Organization which are not borne by the

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19. Records, First Assembly, Minutes of 4th Committee, pp. 23-30.

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States Members of the League are to be paid from the general funds of the League. It follows that the Assembly, which passes the budget of the League is thereby called upon to decide the total amount to be allocated to the Labor Organization."[20] Further, in the thirteen rules above mentioned, number 4 reads as follows: "The Budget of the International Labor Organization should be drawn up in gold francs, and should be submitted to the Secretary-General in time to enable it to be incorporated in the general draft budget of the League. Also, it should be accompanied by detailed explanations."[21] Apparently, the Assembly had won its point.

The significance of this decision of the Assembly is easily seen. By its power to reduce or strike out items in the budget as presented by the Director of the Labor Office, the Assembly could control to a very great extent the character of the activities of the entire Labor Organization. For example, if the Labor Office wished to set up a new Commission to investigate a new problem in connection with labor, and the Assembly disapproved, it could prevent the prosecution of the work by refusing to vote the necessary credits for the establishment of the new Commission. In the same way, it could control and influence the work of the Labor Organization in all other directions. Truly, control of the purse-strings means control of practically everything else. Of course, it must be remembered that, in this case, the Members of the Assembly are the same

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20. Records, First Assembly, Plenary Meetings, p. 700.

21. Ibid., Minutes of Fourth Committee Meetings, pp. 48-63.

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States as are Members of the International Labor Organization, and it would seem therefore that any expenditures contained in the budget of the latter would be approved by the Assembly. But there is a qualifying circumstance. The budget drawn up for the International Labor Organization is not presented at all to the General Conference of that organization. It is drawn up by the Director, and examined and approved only by the Governing Body, before being given to the Secretary-General for incorporation in the general League Budget. So the only opportunity for examining the Labor Organization budget, for a great number of the Member States, is in the Fourth Committee of the Assembly. For this reason it is well within the bounds of possibility that the Members of the Fourth Committee will not always see eye to eye with the Governing Body of the Labor Organization as to the financial needs of that organization.

As it has actually turned out, things went smoothly from 1920 until 1928. The Director of the Labor Office carried out the requirements laid down by the Assembly in regard to the giving of detailed explanations with his budget, and the Fourth Committee, although it subjected the estimates to a very close inspection, invariably passed them as they were, or with only very minor changes. But in 1928 a serious controversy arose. The Director proposed in his estimates a considerable increase in the item of salaries, to provide for several new posts which he claimed were necessary to carry out certain of the functions of his organization. Several members of the Fourth Committee, however, suspected, and voiced their suspicions, that these new posts were being created merely to conciliate certain

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States which were dissatisfied with their national representation in the Labor Office. To say that the discussion was heated is to put it mildly. At any rate, three votes were finally taken; first, for the total suppression of the credit for new posts, second, for reduction of this credit by 150,000 francs, third, for its reduction by 38,500 francs. None of these votes carried, so when the item "salaries" was put to the vote as a whole, it was adopted without amendment.[22] But the debate, and the fact that the motions for suppression or reduction of the credit won at least a fair minority of votes, indicate the tendency in the Assembly to make its control over the Labor Organization real rather than merely formal. In brief, then, the Assembly, as related to the Labor Organization, is in a position, potentially at least, of complete supremacy, through its power of final financial control. The fact that there has been relatively little controversy between the Assembly and the Labor Office does not mean that the Assembly has neglected to use its power. Rather it indicates that the Labor Organization has been wisely and properly administered, that the Assembly can find no very serious fault. That the potential power of the Assembly has itself been at least partially responsible for this proper administration of the Labor Organization cannot be doubted. But the extent of its influence is not something which can be accurately measured. The only definite statement, therefore, that can be made is that the Assembly, through its power of financial supervision and control, has undoubtedly had a wholesome influence

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22. Official Journal, Special Supplement 67, pp. 17-25, 76-82.

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on the Labor Organization, making for greater keenness and efficiency in the character of its work.

The other so-called autonomous organization which is connected with the League system is the Permanent Court of International Justice. Though the Assembly has more varied relations with it than with the International Labor Organization, yet it can be said to have more real autonomy than the latter.

In the first place, and again without any explicit authorization from the Covenant, the Assembly had a part in the establishment of the Permanent Court, although it was not a very important part. As has been seen previously, Article 14 of the Covenant gave to the Council the task of formulating plans for the establishment of a Court, and of submitting the plans to the Members of the League for adoption. Early in 1920, the Council appointed a Committee of Jurists to draw up tentative plans for the Court, and after several months of work, the Committee submitted its draft to the Council. The latter, after making an important amendment in the draft, in connection with the compulsory jurisdiction of the Court, approved it and placed it on the agenda of the First Assembly for consideration and approval. From the first, apparently, there was agreement in the Council to submit the draft to the Assembly, although the wording of Article 14 of the Covenant specified no such procedure as necessary. At any rate, the Assembly did get to examine the draft, before it was submitted to the Member States.

In the Third Committee of the Assembly, which was the committee charged with the duty of examining the draft scheme, only two questions produced any discussion. First of all, a few

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members from the Smaller States argued that, according to Article 14, a unanimous vote of the Assembly was sufficient to establish the Statute of the Court. This very radical argument was soon dismissed, however, and the Committee voted that the signature and ratification of Governments was necessary. So it was decided, after the Assembly had unanimously approved the Statute, to open it for signature and ratification in the form of a Protocol.[23] Secondly, it early became apparent in the discussions in the Third Committee that numerous smaller Powers resented the removal of the Compulsory jurisdiction clause of the Statute, whereas the Great Powers were opposed to its maintenance. The result was a compromise; the compulsory jurisdiction clause became the famous "Optional Clause".[24] With these two exceptions, the sole action taken by the Assembly was to approve the Statute unanimously, and to open it in the form of a Protocol for signature and ratification by the Governments.

In exactly the same way, the Assembly later took part in the process of revising the Statute, with the important exception that it was through the medium of the Assembly that the revising process was initiated. The Assembly of 1928, on the proposal of the delegation of France and twenty other Members, voted to "draw the attention of the Council to the advisability of proceeding, before the renewal of the term of office of the Members of the Court, to an examination of the Statute, with a view to the introduction of such amendments as may be desirable

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23. Records, First Assembly, Plenary Meetings, pp. 436-440.

24. Ibid.

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and to submitting the necessary proposals to the next ordinary session of the Assembly.[25] Thereafter, the procedure was identical with that followed in the drawing up of the original Statute. The Council summoned a Committee of Jurists, who drafted the desirable amendments, whereupon they were approved by the Council, submitted to and approved by a Conference of Signatory States, and then submitted to and approved by the Assembly, and opened for signature and ratification by the Member States. To be brief, it seems fair to say that the role of the Assembly in drawing up and amending the Statute of the Court has not been a very important one.

A second connection between the Court and the Assembly is found in the election of judges to the Court, in which the Assembly has an equal part with the Council. The detailed regulations according to which the election is carried out in the Assembly are contained in the Statute, and will be considered later. For the present, we are concerned with determining what sort of relationship this connection sets up between the two organs. Apparently, it is not one of fundamental importance. There are several reasons for this conclusion. First, the choice of the Assembly is limited to a list of candidates drawn up independently of it, according to a procedure fixed by the Statute. Secondly, the Assembly's choice is limited by certain rules in the Statute: "The electors shall bear in mind that not only should all persons appointed as members of the Court possess the qualifications required, but the whole body also should represent

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25. Official Journal, S.S. 64, p. 109.

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the main forms of civilization and the principal legal systems of the world."[26] To date, the Assembly has shown no serious inclination to violate this general rule. Thirdly, there is the joint competence of the Council, which further limits the freedom of the Assembly. Fourthly, the Assembly has no power of removal. Once elected, the judges are secure for their term of nine years, unless the other judges vote unanimously for dismissal. It seems evident, then, that the connection set up through the election process does not set up any very important relationship between the two bodies. Of course, as it now stands, the existence of the Assembly is essential to the constitution of the Court, for without the Assembly there could be no election of judges, and hence no Court. But, assuming the continued existence of the Assembly, its actual part in the election gives it no control over the Court, leaving the complete independence of that body unimpaired, as it should be.

A third connection between the Assembly and the Court lies in the power of the former to request advisory opinions by the Court on any "dispute or other matter". Exactly what sort of relation this power might set up between the two bodies is uncertain, for thus far the Assembly has made no use of it. But certain general conclusions can be made safely, even in the absence of practical evidence. In the first place, this power can never lead to the securing of any influence by one body over the other. The Court cannot render such opinions on its own volition; there must be a request. So it is impossible for the

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26. See Statute of Court, Article 9. The Statute can be found in the Records of the First Assembly, pp. 468-478.

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Court to render an opinion on a question on which the Assembly is unwilling to have the Court do so. Secondly, it is clear that the advisory opinions rendered by the Court have no binding effect on the body requesting them. It is true that they would have great moral effect, due to the prestige of the Court. But legally there is no reason why either the Council or the Assembly would have to act according to an advisory opinion rendered upon its request. This power of the Assembly, then, cannot result in either the Assembly or the Court securing any influence or control over the freedom of action of the other.

Finally there is the financial connection. The Assembly, by its assumption of financial power, acquired practically the same control over the Court as it had over the Labor Organization. But in regard to the Court, this connection can be quickly dismissed. The Assembly, very wisely, has never used its power over the purse to influence in any way the activities or workings of the Court. In effect, the relationship is much the same as that between the courts and the legislature of a national government. The latter decides on the amount of the salaries for the judges, and votes the appropriations necessary to meet the other expenses of the courts, but makes no attempt to use this power of appropriation to weaken the independence of the judiciary. The same has been true of the relations between the Permanent Court and the Assembly. The Fourth Committee has never subjected the Court Budget to an examination as close and as critical as that applied to the budgets of the Secretariat or the Labor Organization. Generally, it passes the Court Budget as submitted by the Registrar without detailed

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inspection and without amendment. Since the economic depression, when the clamor for economy has become increasingly insistent in the Fourth Committee, the budget of the Court, along with those of the Labor Organization and the Secretariat, has been reduced, but even then, the reductions have been made only with the consent of the Registrar, and upon his assurance that the working of the Court would not be seriously handicapped.[27] It appears, then, that the independence of the judiciary, so vital in all national systems, has been equally well maintained in the League system. The various other connections between the Assembly and the Court have not been allowed to interfere with that independence in any way, and the results have been best for all concerned.

3. Relationship between Assembly and Technical Organizations.

As one would naturally expect, the relations of the Assembly with the Technical Organizations are considerably closer and of a more mutually influential character than those with the so-called autonomous organizations. Of course, the extent of the connection between the Assembly and the technical organizations varies with the particular committee or commission, since all of them were not created in the same way, or under the same mandate. For example, the Permanent Mandates Commission was directly provided for in Article 22 (9) of the Covenant; it was to be created by the Council, to advise that body on all matters relating to the mandates system. Evidently, the Assembly was to have no connection whatever with it. The Advisory Committee on Traffic in Opium

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27. See, for example, Official Journal, S.S. 107, pp. 22 et seq.

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and Other Dangerous Drugs, on the other hand, was, as we shall see, created specifically on the initiative of the Assembly.

This, then, is the first line of connection between the Assembly and the Technical Organizations, namely, its part in the creation of atleast some of them, and in the actual organization of nearly all of them. Because of the varied character of these organizations, some consisting of government appointees (like the Committee on Communications and Transit), and others consisting of Council appointees (like the Preparatory Commission for the Disarmament Conference), not many generalizations can be made with accuracy. However, the two outside limits of the connection set up can be drawn. On the one hand, the Assembly in no case directly created one of these technical organizations. The most it ever did was to initiate the idea of a particular commission, specify in a recommendation to the Council how it wished the commission to be organized, and vote a credit in the next budget for the expenses of the commission. The most recent example of this sort of activity by the Assembly is found in the session of 1933, when a resolution was adopted asking the Council to nominate a High Commissioner, and to invite the States able and interested, and even private bodies, to form with the High Commissioner a Governing Body to negotiate and direct collaboration between nations in providing for German refugees.[28] This particular commission, of course, is to be only a temporary one, but it demonstrates the power of the Assembly to initiate, and specify the composition of, certain of the League's Technical Organizations. On the other

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28. Journal, 14th Assembly, 9th Meeting, Oct.11,1933. pp. 5-6.

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hand, the least that the Assembly has ever done in regard to the setting up of League committees or commissions has been merely to vote approval of the action of the Council, and make the necessary financial provision. An instance of this minimum of action by the Assembly was given in the First Assembly. The Health Committee had been tentatively organized by the International Health Conference at London, in April, 1920, and the plans then submitted to the Council, which made some minor changes. The Council in turn submitted the proposed plan of organization to the Assembly, which examined it perfunctorily, and approved it without amendment.[29] It seems clear, therefore, that the least that is required in the creation and organization of the League committees and commissions is formal Assembly approval. What might happen if the Council should try to set up a commission without submitting the question to the Assembly is uncertain, for no such situation has yet taken place, nor is it likely to do so. But with its control of the purse-strings, the Assembly would in all probability be able to compel observance of its wishes. The significance of the Assembly's assumption of financial power becomes ever more apparent.

Because of the variations in the character of the technical organizations, it became essential to define their relations with the Council and the Assembly quite early. At its fifth meeting, in June, 1920, the Council adopted a resolution, which it made subject to the approval of the Assembly, and which had to do with " Relations between the Technical Organizations and the

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29. Records, First Assembly, Plenary Meetings, pp. 383-391.

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Council and Assembly of the League."[30] This Assembly approval was given, after considerable discussion, at the seventeenth meeting of the Assembly, only one small change being made.[31] The resolution as adopted by the Assembly was as follows:

"The Technical Organizations of the League now in process of formation, are established for the purpose of facilitating the task of the Assembly and the Council, by the setting up of technical sections on the one hand, and on the other to assist Members of the League, by establishing direct contact between their technical representatives in the various spheres, to fulfill their international duties.

With this double object, they must keep enough independence and flexibility to make them effectively useful for the Members of the League, and yet they must remain under the control of the responsible organizations which conduct the general business of the League, with a view to verifying whether the proposals are in conformity with the principles and spirit of the Covenant in accordance with Articles 19 and 20.

The two following principles will serve as a guide:
(a) The interior working of the various organizations should be independent. They will prepare their own agenda and communicate it to the Council before discussion thereon takes place. In exceptional cases in which it is necessary to add to the agenda during the progress of a conference of a Tech-

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30. Official Journal for 1920, #4, pp. 151-153.

31. Records, First Assembly, Plenary Meetings, pp. 352 et seq.

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nical Organization, and time does not admit of the communication of the additional item to the Council, any decision arrived at thereon shall be provisional only, until the Council has had an opportunity of exercising its control. (b) Their relations with Members of the League should be under control....(The article then proceeds to give the Council the power of veto over any proposals of the organizations in regard to communications to Members, or action concerning a Member.) .... The Technical Organizations may, however, request that the decision taken by the Council shall be discussed at the next meeting of the Assembly.

The Assembly of the League should be informed of all questions dealt with in the interval between its meetings by the Council in the exercise of its power of control defined above. It may either be informed of such questions by the Council on its own initiative or on the proposal of any one of its Members, or at the request of one of the Technical Organizations of the League."[32]

The last paragraph of this resolution, which has been very faithfully carried out, both by the Council and the Technical Organizations, gives to the Assembly a very influential connection with the League commissions and committees. Again, it is a case of a power in no wise foreseen or prescribed by the Covenant. The wording of the paragraph, considered by itself, merely gives to the Assembly the right to be "informed" of developments. But the use which the Assembly has made of this right has been much more

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32. Records, First Assembly, Plenary Meetings, pp. 360-361.

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important than is indicated in the above resolution. Taken in connection with the assumption of financial power, it has placed the Assembly, in relation to the Technical Organizations, in a position of control which is very similar to that of a national legislature in relation to the ministerial departments.

The Assembly, like a national legislature, has acquired the power of supervision and criticism of the past work of the technical organizations, and more important, the power of initiation of work for them as well. Examples of the use made by the Assembly of both these rights are numerous in the records of the debates. A specially significant instance of the critical function of the Assembly can be found in its resolution regarding the work of the Mandates Commission, in 1923. It must be recalled that the connection of the Assembly with that Commission is probably more tenuous than with any other. The part of the resolution of importance here was as follows: "The Assembly regrets that the Permanent Mandates Commission has not yet been able to report that satisfactory conditions have been reestablished in the Bondelzwarts District, and expresses the hope that future reports of the Union of South Africa will contain such information as may allay all misgivings in this connection."[33] Of course, formal resolutions of the Assembly are naturally very carefully worded, and never make an open rebuke. It is in the speeches of particular delegates that one can find more open criticism. For instance, the Hungarian delegate, in the Ninth Assembly, in giving his reason for abstaining from voting on the

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33. Records, Fourth Assembly, Plenary Meetings, pp. 90-92.

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proposed resolution praising the Preparatory Commission on Disarmament, said: "It has carefully avoided doing anything that would give us even the slightest hope. In consequence, our present humiliating condition of unilateral disarmament will continue."[34]

As an example of the Assembly's power of initiating work for the Technical Organizations, as well as of its power to direct the organization of certain ones among them, is the following resolution, adopted by the Second Assembly:

"The Assembly approves the following resolutions submitted by Committee 3 in regard to reduction of armaments:

(1) That the Temporary Mixed Commission be asked to continue the work it has begun;

(2) That the Temporary Mixed Commission be asked to make proposals on general lines for the reduction of national armaments which, in order to secure precision, should be in the form of a draft treaty or other equally definite plan, to be presented to the Council, if possible before the next Assembly. In order to enable the Tenporary Mixed Commission to accomplish this task, the Council is asked to strengthen that Commission.

(3) That a statistical investigation be made in regard to the armaments of the various countries upon the lines indicated in the accompanying report.....

(9) That the Temporary Mixed Commission be asked to examine whether it is advisable to address an appeal to the scien-

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34. Official Journal S.S. 64, p. 153.

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tific men of the world to publish their discoveries in poison gas and similar subjects, so as to minimize the likelihood of their being used in any future wars."[35]

However, lest the impression be given that the Assembly is always criticising, and assigning new work to the Commissions, it must be mentioned that this is exceptional rather than ordinary. Of course, the Assembly examines the work of all the commissions and committees every year; and its examination, through one of its six major committees, is very detailed, and very keen. But the result is not often condemnatory criticism, or orders for new undertakings. The reason for this, again, is not that the Assembly is a mere rubber-stamp, which goes through the motions of examination and then approves, but that the Technical Organizations have, as a rule, done their work to the entire satisfaction of the members of the Assembly. In these respects too the Assembly resembles a national legislature. It is the exception rather than the rule for a legislature to condemn the work of the departments, for precisely the same reason -- there is rarely just cause for criticism. Further, when the legislature adopts a law assigning new functions to one of the departments, the initiative rarely comes from the legislature itself; rather, the head of the department proposes, and the legislature merely disposes. Of course, in both cases, of the Assembly and the national legislative body, the mere fact that they have the power of supervision and criticism makes it generally unnecessary for them to use their power; the potential threat of the power is usually enough to keep the departments in line.

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35. Records, Second Assembly, Plenary Meetings, pp. 647-649.

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A further connection of considerable significance between the Assembly and the Technical Organizations, and one which does not usually exist between a legislature and the ministerial departments, is the personal connection. A detailed and statistical investigation of this connection is neither possible nor necessary. A statement made by the British delegate in the Third Committee of the Eleventh Assembly showed with sufficient clearness the tendency of Governments to appoint as their representatives in the Assembly the same men who represent them on the Technical Organizations. The statement follows: "We had this Convention very carefully discussed last year; we went through it clause by clause; it was all discussed; we arrived at the conclusion that there were still some points which required further discussion by what is substantially a Sub-Committee of this Committee, because the Committee on Arbitration and Security includes only a certain number of the members of this Committee."[36] Professor Rappard is another classic example of the same tendency. He is a regular member of the Permanent Mandates Commission, and at the same time a regular delegate of Switzerland in the Assembly. There are numerous others as well, as is shown by a merely casual examination of the membership of the Assembly sessions and of the commissions. As to just how far this tendency has carried, there is no certainty. Its significance, increasing with its extent, is obvious. The more representatives the Assembly and the Technical Organizations have in common, the less will be the possibility for disagreement and dissension between them. The Assembly will be better able to understand and

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36. Official Journal, S.S. 87, p. 13.

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appreciate the aims and activities of the Technical Organizations, and the members of the latter who have taken an active part in the Assembly discussions will return to their work in those organizations with a much more complete and sympathetic understanding of the ideas and attitudes of the Assembly. This is especially important in such a system as that of the League, where mutual understanding and cooperation are much more necessary than division of power, if anything at all is to be accomplished. On the other hand, the danger in this tendency towards duplication of membership in the Assembly and the Technical Organizations must be recognized. Men are not very apt to criticize themselves; and thus the fact that the same individuals are members of both the Technical Organizations and the Assembly might well lead to a nullification of the latter's critical and energizing function in relation to the former. No matter what the Technical Organization did or did not do, the Assembly would approve. Such a possibility, however, depends upon the extent of the duplication of membership, and it does not seem likely that such duplication will grow very appreciably, at least not in the near future.

Finally, we come to the all-important financial connection. How it works, or more exactly, how it can work, if and when necessary, has already been indicated. The Assembly could, if it found the work of a particular committee unsatisfactory, reduce or strike out the credit for that committee, and thus put an end to it. This financial control in the hands of the Assembly acts as an important brake on the tendency of groups of experts or technicians to proceed too fast and too far, and on their impatience o f the more sedate and gradual progress which appeals

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to such a body as the Assembly. But again, as in the case of the Labor Organization, this control of the Assembly has been potential rather than actual. True, on several occasions, notably since 1929, the Assembly has reduced the credits asked for by the various commissions, but such reductions were not meant to imply criticism of their work. This is shown by the fact that the reductions were general, and not directed against any particular body. On only one occasion was a reduction made in the budget of a technical organization directly due to disapproval. This was when the Fourth Committee of the Ninth Assembly voted to reduce the budget of the Permanent Mandates Commission by 100 francs, "as a reminder of the wish expressed by the Fourth Committee last year that the mandatory Powers rather than the Mandates Commission should distribute their reports, and thus save the League a little expenditure."[37] Even in this case, the reproof was directed, not against the Commission, but against the mandatory Powers.

In conclusion, then, it seems that the Assembly, though it possesses vast potential power over the organization and activities of the Technical Organizations, has chosen not to interfere unless it finds interference necessary. And, to date, that situation has not arisen. The various committees and commissions have done their work in a wholly satisfactory manner. The resolution passed by the Council and the Assembly in 1920, specifying "enough independence and flexibility" for the organizations to make them effectively useful for the Members of the League, has been well observed. The second rule, specifying control by the Council and

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37. Official Journal, S.S. 67, pp. 47-48.

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the Assembly, to keep the commissions within the principles and spirit of the Covenant, has been equally well observed.

4. Relations of the Assembly with the Secretariat.

Just as in the case of the autonomous organizations and the Technical Organizations, the Covenant gave no inkling of the varied and influential relationship which was to develop between the Assembly and the Secretariat. Only in Article 6 did the Covenant envisage any connection. Paragraph 2 of that article provided that the successors to the first Secretary-General should be appointed by the Council with the approval of a majority of the Assembly; and Paragraph 4 prescribed that "the Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council." This was all that the Covenant contained concerning the relations between the Assembly and the Secretariat.

At its very first session, however, the Assembly began its march towards power over the Secretariat which has steadily continued. It is recalled that Sir Eric Drummond, the First Secretary-General, had been appointed in the summer of 1919. By November, 1920, he had practically completed the organization of the Secretariat, with the approval, of course, of the Council. So the insertion by the Council of an item on the agenda of the first Assembly, having to do with "The Report of the Secretary-General on the Organization and Work of the League."[38] might well be regarded as the presentation of a "fait accompli". But the Assembly chose not to regard this item as inserted merely to give

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38. Official Journal for 1920, #6, pp. 351-352.

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them information. It was immediately given over to the Fourth Committee for consideration. The members of that body showed the same advanced spirit on this question as they had in regard to finances. The Secretary-General stated that it was his opinion that, according to the Covenant, appointments and organization were matters for which the Council was alone responsible, and that only the question of amount of salaries could be discussed by the Assembly and its committees. Mr. G.N. Barnes, a Laborite from the United Kingdom, immediately made answer that certainly it was not possible to modify the decisions taken by the Council up to the present. But the responsibility of the Fourth Committee, which had been appointed by the Assembly, must not be undertaken lightly for the future.[39] However, the resolutions on this question which the Fourth Committee proposed and which the Assembly adopted, showed that the opinion of the Secretary-General had carried considerable weight. They took the form of three very general recommendations, the first, that appeal to the Council should be granted to employees of over five years' service who have been dismissed; the second, that lists including the number, nationalities, and salaries of all employees in the Secretariat should be attached to the annual budget; and the third, that information concerning vacancies should be as public as possible, and that, in filling vacancies, due regard should be had for the international character of the League.[40] But this was not all that the First Assembly did. In the Fourth Committee's report

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39. Records, First Assembly, Minutes of 4th Comm., pp. 7-10.

40. Ibid., Plenary Meetings, p. 672.

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on the finances of the League, there was a resolution proposing that a Committee of Experts be appointed by the Council to examine thoroughly the existing organization of the Secretariat, and to report back to the Council. But the resolution concluded: "This report must be in the hands of the Members of the League within six months, the Assembly reserving the right to make such changes as may appear necessary."[41] This last was the important part of the resolution. It showed the decision by the Assembly that it intended to take more than a passive part in the organization of the Secretariat. When the report of the Committee of Experts was presented to the Assembly of 1921, however, it was found to be so thorough that no changes were necessary. Its findings remained the basis of the organization of the Secretariat until 1930. In that year, the Assembly, acting on the report of a Committee of Enquiry appointed by itself in 1929, adopted detailed regulations for the future organization of the Secretariat.[42] This is a good instance of the gradual growth of Assembly predominance within the League. In 1920, it felt strong enough to pass only a few general recommendations. Ten years later, its position had become so firmly established that it did not hesitate to enact specific regulations, not vastly different in form from the civil service regulations drawn up by a national legislature.

However, it should be mentioned that the Assembly was never very greatly interested in the organization of the Secretariat from the point of view of efficiency. Its concern was

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41. Records, First Assembly, Plenary Meetings, pp. 708-709.

42. Official Journal, S.S., #84, pp. 218-221.

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rather over the distribution of Secretariat positions among the various nationalities. The discussions in the Assembly, both in 1921, on the Noblemaire Report, and in 1930 on the Report of the Committee of Enquiry, showed very clearly that this was the chief question of interest to the members of the Assembly, especially to those from smaller States. The practical monopoly of the upper brackets in the Secretariat by nationals of the Great Powers has from the beginning been keenly resented by the smaller States. But it cannot be said that this resentment has been based wholly on nationalistic selfishness. The Secretariat has come to occupy a position of considerable importance in the initiation and shaping of League policies, due chiefly to its permanence as compared with other League organs, and to its greater familiarity with the factual material which must be the basis of any League activity. And it could be said, not entirely without reason, that League problems might be more impartially solved if the smaller Powers were given more adequate representation in the higher, policy-forming divisions of the Secretariat.

This fact just mentioned, namely, the development of a policy-forming influence in the Secretariat, opens up a second important line of connection between that body and the Assembly. This connection operated through the mechanical relationship set up in the Covenant, according to which all secretarial needs of the Assembly are to be filled by the Secretariat. Of course, such functions as keeping the minutes, sending communications from the Assembly to the Member States, and the transmission of communications from Members to the Assembly, involve no further

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developments than appear on the surface. But there are certain other secretarial functions through which the higher members of the Secretariat can wield a very considerable influence. Obviously, this influence, being wholly extra-constitutional, must remain entirely "sub rosa", but this detracts not at all from its importance.

The fact-finding duties of the Secretariat, for example, might give that body great influence. The Assembly might ask the Secretariat to investigate all aspects of a certain question, so that a later Assembly might determine, on the basis of the findings of the Secretariat, what action should be taken by the League. It might well be that the higher officials of the Secretariat, with their Great Power background and sympathies, would feel that the League should follow a particular line of action. In such a situation, there is nothing to prevent them from finding only those facts which support their point of view, and presenting a report to the Assembly accordingly. Or, as another example, the Assembly, which is a very busy organ, might assign to the Secretariat certain executive functions, with only general instructions. In a case of this sort it might easily happen that the Secretariat would have to make important decisions on its own initiative, between sessions of the Assembly (or of the Council). Of course, both these examples are theoretical rather than actual. But they are not beyond the realm of possibility. Furthermore, it requires no detailed examination to see that this tendency towards bureaucracy is universal, and not peculiarly characteristic of the League system. The advantage of the specialist over the general practitioner in the highly integrated modern

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world is an indication of the same thing. The members of the Assembly are very busy men, entirely apart from their work in connection with the League. For the greater part of the year, they are engaged in purely non-League activities. The Secretariat, on the other hand, is composed of highly trained officials who are working with League problems, and within League machinery, throughout the entire year. Such a set-up will inevitably place in the hands of the Secretariat a policy-forming power of no mean importance.

Finally, again, there is the financial connection. Ever since 1920 the Assembly has had the final word on the budget of the Secretariat. But exactly how important that power is, is a matter of some uncertainty. Probably, without it, the Assembly could not have taken so active a role in regard to the organization of the Secretariat. But, as we have seen previously, that role was not as active as it might have been, especially before 1930. Further, the part of the Secretary-General in drawing up the annual League budget should not be neglected. It is he, in collaboration with the heads of the committees and commissions, and the chiefs of Section in the Secretariat, who takes the initiative. He draws up the budget as he thinks it should be, and then presents it to the Council. In the latter body, approval has become more or less a formality. It is in the Fourth Committee of the Assembly that the Secretary-General's budget is subjected to real scrutiny. Even there, the limitations as to time and detailed knowledge must be taken into consideration. The charge has frequently been made in the Fourth Committee, and as frequently denied by the Secretary-General,

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that the Secretariat has protected itself against any possible reductions which might be made in the Assembly by fixing the estimates considerably above the actual needs; thus, when the Assembly votes reductions in the interests of economy, the various commissions and divisions of the Secretariat still receive very nearly as much as they desire.[43] Of course, this charge cannot be substantiated on indisputable evidence; but if true, it reduces considerably the effectiveness of the Assembly's power over the purse, at least in connection with the Secretariat. Even if this charge is not founded on fact, Assembly control is still limited by the very complicated character of a modern budget. The Secretary-General can, with justice, complain that reductions in one or a few items upset the delicate balance of the entire budgetary scheme, and thus make the members of the Assembly more willing to accept the budget just as it is presented. In general, then, it seems that the extent of the financial control in the hands of the Assembly is subject to the same handicaps as is that of a national legislature. The permanent officials, by the very fact of their permanence, have an advantage in the matter of technical information, and as a consequence the representative body hesitates to act counter to the claims of the permanent officials.

Looking back, it appears that a delicate relationship, not subject to accurate analysis, has evolved between the Assembly and the Secretariat. In some directions, it is the latter which dominates the former; in other directions, the relationship is

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43. See, for example, discussions in Fourth Committee at the 13th Assembly -- Official Journal, SS. 107.

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reversed. To sum it all up in a few words, it seems safe to say that much the same relationship as exists between a national legislature and a national civil service, has developed, due to the conditions in the modern world, between the representative body and the civil service of the League system -- that is, a relationship steadily evolving to the greater advantage of the latter.

5. Relations of the Assembly with the Council.

The Covenant, it will be remembered, was silent on the question of the relationship between the Council and the Assembly. As we saw previously, when Hymans of Belgium asked in the League of Nations Commission that a more clear distinction be drawn between the functions of the Council and of the Assembly, both Cecil and Wilson argued that it was preferable to leave the matter to solve itself by the subsequent action of the two bodies.[44] So it turned out as the representatives of the two Great Powers desired. The Assembly and the Council were left free to work out their relationship themselves.

The Council, however, took the initiative before the Assembly met. At its eighth meeting on August 2nd, 1920, the Council adopted a report on the relations between the Council and the Assembly, presented by the British representative, Mr. A.J. Balfour. In this report, the joint competence of the two bodies was stressed, and it was pointed out that the "functions not only overlap, but in most important respects they are

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44. See Above, p. 37.

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absolutely and literally identical". The Council was advised to refrain from any action which might bring out the collision of authority which was possible but not probable under the Covenant. The report went on: "while a large number of the functions entrusted to the League of Nations by the Covenant might be exercised by either the Assembly or the Council, there are a certain number which can only be exercised by the Council with the assent of the Assembly." Thereupon, the report attempted to lay down a general rule of vital importance: "If one of the organs of the League has dealt with a question coming within the sphere of their common activity, it is inopportune for the other organ to take measures independently with regard to this question." This rule would have given vast power to the Council, for at that time the Council was meeting very frequently, and it had not yet been decided that the Assembly should meet annually. In other words, the Council, by its greater permanence and frequency, would be in a position to take initial action on practically every sphere of League activity, and the Assembly would be left high and dry, with virtually no alternative but to follow the leadership of the Council. Finally, the report concluded: "the less we attempt to formulate in explicit language the precise functions of the Council and of the Assembly, the better for the future of the League. Let us resolve to deal with any differences between the Assembly and the Council, not according to pre-arranged rules, but according to the dictates of tact and common sense, treating each case as it arises on its merits."[45]

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45. For this report, see Official Journal for 1920, #6, part I pp. 93-94.

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The First Assembly, however, itself considered the question. Out of the discussions in the First Committee, which was entrusted with this item, there emerged a report, which was adopted with little debate by the plenary session. The report, though somewhat more detailed than that of Balfour, contained nothing radical. Its vital parts were as follows: "It is impossible to consider the Assembly as a Chamber of Deputies, and the Council as an Upper Chamber. The objections to this view are that, while in certain matters the Council and Assembly have identical rights, in others they have each their special rights, and that the two bodies are not called upon to discuss and decide exactly the same points..... It is equally inpossible to consider the Council as invested with executive and the Assembly with legislative powers. The conclusive objection to this view is that the Assembly possesses certain executive prerogatives. The truth is that the League of Nations has no analogy in ordinary constitutional law. Article 2 of the Covenant provides that the League's action shall be effected through the instrumentality of an Assembly and a Council. It follows that the League is a single organism which has at its disposal two organs whose distinct or similar attributes must now be considered." The report then proceeds to catalogue the functions peculiarly for the Council, and then those for the Assembly, and then the functions to be carried out merely by "the League". Finally it comes to the same conclusion as the Balfour Report: "In the opinion of Committee One it would not seem desirable or necessary to formulate in explicit language at the present time what are the precise functions which the Council and the Assembly are respectively

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expected to perform."[46] It would appear, then, that the Assembly did not go very much farther, at least not at its first session, than did the Council, in defining the relationship between the two bodies. But, loath though it may have been to state the relationship in unambiguous terms, the Assembly from the very beginning commenced to set up in practice various connections with the Council which were not foreseen by the Covenant, and which early gave to the Assembly a predominant position within the League.

The first of these connections was that allied with the annual report on the work of the League during the previous year. This report was given to the First Assembly on the initiative of the Council itself, but whether that body foresaw how it was to develop is highly doubtful. At any rate, this annual report has become a regular feature of every session of the Assembly. And through it as a medium, the Assembly has possessed itself of an important power of review and criticism in relation to the Council, a power, be it noted, which the Council has come to regard with the proper respect. In view of the position of the Assembly as a world forum for the airing of grievances, the significance of this power of the Assembly becomes apparent. The various ramifications of the annual report will be treated in more detail later, but it can be mentioned here that the members of the Assembly have made use of it chiefly to review the work of the Council, and through criticism to keep that body operating along the lines which the Assembly wishes. This is es-

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46. Records, First Assembly, Plenary Meetings, pp. 282-284.

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pecially true of the representatives from the smaller States, who have no regular representation elsewhere than in the Assembly. When they have felt criticism to be desirable, they have not hesitated to be critical. For example, in the Second Assembly, M. Branting, the first delegate from Sweden, after calling attention to the extensive criticism of the Council during the previous year, said quite frankly that it was all deserved. The Council, he went on, "had sidestepped all the important issues which public opinion had expected it to handle, and had been especially lax in carrying out the resolution of the First Assembly in regard to greater publicity for Council discussions."[47] Again, at the same session, the delegate from Persia catalogued the outstanding weak spots in the achievements of the Council: defiance of the mandatories, failure to solve the Polish-Lithuanian dispute, failure to solve the problem of armaments, and failure in the Graeco-Turkish "war."[48] Numerous other examples could be found in the records of every session of the Assembly. Of course, it should also be remembered, the representatives of States Members of the Council have an equal right to speak on the annual report, and defend the activities of the Council. The very fact that they are usually eager to answer the criticisms made, shows how sensitive they are to such criticisms; and naturally, their distaste for such criticism makes them more eager to carry out the wishes of the Assembly, and thus avoid it. At any rate, the annual report furnishes the Assembly a valuable check on the

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47. Records, Second Assembly, Plenary Meetings, pp. 58-59.
48. Ibid., pp. 172-174.

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independence of the Council, and makes the relationship between the two organs more like that between cabinet and legislature than was envisaged in the report adopted by the First Assembly. Lord Cecil saw better than most what was to be the outcome, when in the First Assembly he prophesied: "It is quite clear that, as the League goes on, it will become more and more the case that the Council will be treated as the executive body which will be responsible, not as to its decisions, but at any rate, so far as criticism is concerned, to the whole body of the Assembly."[49]

A second connection, unforeseen by the Covenant, may be described as the "energizing" function of the Assembly. It would naturally be expected that the Assembly, as the special bulwark of the smaller Powers, should be more progressive than any other League organ; this has generally been the case, that is to say, the Assembly has frequently taken the initiative in the undertaking of new problems by the League. An important example of how the Assembly carried out this function was the creation of the Temporary Mixed Commission on Disarmament. It was the Assembly that first realized the inadequacy of the Permanent Advisory Commission, composed as it was solely of military experts, and thus, the very first session of the Assembly resolved to "invite" the Council to create another body, the Temporary Mixed Commission, made up of persons competent in political, social and economic as well as military matters.[50] At the same time, the Assembly "requested" the Council to submit for the consideration of the

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49. Records, Second Assembly, Plenary Meetings, p. 286.

50. Records, First Assembly, Plenary Meetings, pp. 520-524.

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Members of the League the acceptance of an undertaking not to exceed, for the next two years, the expenditures provided for armaments in their budgets for that year.[51] And the Council was very careful to carry out this invitation and this "request". Again, however, it must be kept in mind that the members of the Council are also members of the Assembly, and therefore, in view of the unanimity rule, no measure to which any of the members of the Council are opposed can pass in the Assembly. This fact puts a very effective limitation on the power of the Assembly to initiate new activities, but it still remains true that through the energy of the delegates from smaller States certain lines of action which are matters of indifference or at least not matters of unalterable opposition by the Great Powers, can be inaugurated in the Assembly. Further, if a united front should be presented by the small States, it is not very likely that the few great States would have the courage to veto their proposals. In view of these facts, it seems safe to make the general statement that the Assembly does possess some degree of energizing influence in its relations with the Council. A consultation of the Council minutes every year will show that this influence produces results. The Council is always very careful to carry out the resolutions and the requests made by the Assembly. This, of course, is to be expected. If the Council members disapproved, they would register their disapproval in the Assembly, and check the matter in its infancy, rather than let it get through that body, and then oppose it in the Council.

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51. Records, First Assembly, Plenary Meetings, pp. 520-524.

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From this it becomes apparent that the personal connection between the Assembly and the Council is one of no mean importance. Perhaps the term "personal connection" is not quite accurate. It is not always the case that the States Members of the Council appoint as their representatives in the Assembly the same men who are their spokesmen in the Council, although this is the usual practice. But in any case, the Assembly representatives of the States who are also Members of the Council are named by the same Governments and given the same instructions, at least on all the important questions which are to be discussed by the League organs. Obviously, then, there is little probability of any official disagreement between the Council and the Assembly, although individual disagreement and criticism can be, and often is, quite plentiful. But the members of the Council, through the rule of unanimity in the Assembly, are given effective power to veto any measure which they disapprove. In short, the arrangement sets up a sort of balance: the Council cannot be dictated to, without its own consent; neither can it dictate to the Assembly.

But, as was mentioned above, the usual thing is for the same men to represent their particular Governments in both Council and Assembly. This has become even more usual since the practice of sending Prime Ministers and Foreign Ministers has grown. In this fact can be found another advantage of the States Members of the Council. These men, having participated in the discussions in the Council, have a wider and more detailed knowledge of League business, and as a result can take a more active and influential part in the work of the Assembly. In view of the further fact that part of the membership of the Council rotates,

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this advantage attaches more particularly to the Great Powers, who are permanently represented in the Council. It would appear, then, that the sensibilities and interests of the Great Powers are adequately protected against any serious attack by the other Members of the League.

Another connection of some importance between the Council and the Assembly is provided in the Covenant. Article 4 (2) of that document reads: "With the approval of the majority of the Assembly, the Council may name additional Members of the League whose representatives shall always be members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council." This paragraph gives the Assembly a voice in increasing either the permanent or the non-permanent membership of the Council. However, according to the wording of the paragraph, the Council must in both cases take the initiative. The actual developments have defeated this apparent intention of the authors of the Covenant. In 1926, when the Council called a special session of the Assembly to approve the admission of Germany into the League as a permanent Member of the Council, it found the Assembly rebellious. The latter body had some ideas of its own on the question of Council membership. Of course, the source of these ideas is another question. The point remains that they were expressed through the Assembly rather than through the Council. The outcome was that the admission of Germany was accompanied by an increase in the number of non-permanent seats on the Council to nine, and by the adoption of the doctrine of re-eligibility for non-permanent seats, with certain limitations.[52]

52. See Official Journal, S.S. 42 (Special Assembly Records.)

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Also, it was on the initiative of the 1932 Assembly that the Council decided to increase its non-permanent membership to ten, provisionally until 1936. Of course, the 1933 Assembly had to approve, before this addition became operative.[53] So, on the basis of actual developments, the conclusion is justified that the Assembly controls almost completely the non-permanent membership of the Council. In the first place, the Covenant gives it the power of electing the non-permanent members, and in the second place, it can secure an increase in the number of non-permanent members when it urgently desires to do so. Moreover, in these cases, unanimity is not required in the Assembly. A majority is sufficient; thus, a bloc of the smaller States might elect the entire non-permanent membership of the Council. The significance of this is obvious. If a majority of the Members of the Council feel a greater sympathy for the Assembly than for the Council, the position of the latter will suffer accordingly, and that of the former be enhanced. If one keeps also in mind that, from the outset, the permanent Members never outnumbered the non-permanent Members, and that the ratio has changed from one of equality to one of decided advantage for the non-permanent Members (it is now 10 to 3, Japan and Germany having withdrawn), there can be no doubt that the position of the Assembly in relation to the Council has become vastly different from that envisaged by the authors of the Covenant. The dominance of the Assembly has grown steadily, and the Council has become more and more subordinate, until now it occupies a position much like that of the cabinet in a national governmental system.

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53. Journal of the 14th Assembly, 6th Meeting, Oct.2, 1933. pp. 11-12.

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Finally, we revert again to the financial connection. As has been the case in relation to all other League organs, so it has been in relation to the Council. Ever since 1920, the Assembly has maintained its hold on the purse-strings of the League. In consequence, the Assembly has in general the same sort of control over the activities of the Council as over those of the other League organs. But there are important differences applicable to the financial connection with the Council. In 1923, the Assembly decided that the adoption of the Budget in plenary session requires a unanimous vote.[54] This decision places a significant limitation on the financial control of the Assembly over the Council. The members of the latter, it will be remembered, are also members of the former. Thus, if no Budget can be adopted without the unanimous consent of the Assembly, it follows that no Budget can be adopted without the consent of all members of the Council. It is conceivable, in cases of serious disagreement between the members of the Council and the other members of the Assembly, that the former, by persisiting in their opposition, might get a budget agreeable to themselves. At any rate, the Assembly cannot control the activities of the Council with the same threat of a reduction in appropriations which it holds over the other League organs.

Until 1930, the Council had an additional measure of independence from financial control by the Assembly. Each year it approved the Budget drawn up by the Secretary-General before it went to the Assembly. It performed this function at its June session. From the outset, however, this Council approval was a

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54. See Document C.220.M.92.1931.V.

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mere formality. Morley has this to say about it:"This particular assignment (rapporteur to the Council on League finances) is generally allotted to the outstanding 'greenhorn' among the new members."[55] And since 1930, the Council has apparently foregone even this right of preliminary examination of the Budget, by its decision to have three meetings a year, in January, May and September, instead of the previous four. It is administratively impossible to prepare the Budget in time for the May session of the Council, so that body is no longer able to receive it for examination before it goes to the Assembly. However, the Council Members still retain their power to obstruct the Budget in the Assembly, so it seems that the Council has lost nothing of importance by this decision to hold only three meetings a year. Much more important, since 1928 the Council has lost the right to appoint the members of the Supervisory Commission, that power having been taken over by the Assembly. What this has meant in regard to the relative position of the two major organs of the League will be seen later. For the present, it is sufficient to note that, prior to 1928, this power of appointment gave the Council a very influential part in the financial administration of the League, which was lost to the Assembly when that body took over the power.

In summary, it would seem that no general statements will cover accurately the relationship existing between the Council and the Assembly. It is a relationship having no exact prototype in either political or commercialminstitutions. Dr. Paul

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55. Morley, F., op. cit., p. 410, footnote.

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Walp, in his "Constitutional Development of the League of Nations", finds a similarity between the relations of the Council with the Assembly and the relations of a board of directors with the general shareholders' meeting of a corporation.[56] Even this comparison, however, must be made subject to certain qualifications, such as, for instance, the limitations on the Assembly in regard to the election of the Members of the Council. Moreover, it is equally futile to search for prototypes in political organization of the past. In some ways the Council appears to be a revival of the old Concert of Europe; in others it compares to the upper chamber of a national legislature; in still others it takes on the aspect of an executive cabinet. Though a flavor of the two first named still remains, the course of League development has been such as to make the cabinet aspect the most valid. As Mr. Morley explains it, "The enormous growth of League activities and the consequent necessity of decentralizing have forced the Council to pass over numerous duties to its Technical Organizations and advisory committees, as well as to the Secretariat and the Assembly..... And although its actions may often seem perfunctory, the Council fulfills one important definition of cabinet function by being the organ which assumes full and final responsibility vis-a-vis the Assembly or vis-a-vis world public opinion, for all policies undertaken by the League."[57]

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56. Walp, Paul K. - Constitutional Development of the League of Nations, Lexington, Ky., 1931. p. 155.

57. Morley, F., op. cit., p. 407.

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CHAPTER IV. The Assembly at Work - Organization

1. Material Conditions of Organization.

Having now placed the Assembly within the general framework of the League, it becomes possible to turn to its work and organization in a more particular manner. Our first concern will be with the material conditions of Assembly organization, such as when and where its sessions are held, its material surroundings, and the like.

The first paragraph of Rule 1 of the Rules of Procedure adopted by the First Assembly reads: "The Assembly shall meet in general session every year at the seat of the League of Nations...."[1] This rule contains a decision of the most far-reaching importance, which was taken by the Assembly purely on its own initiative. Article 3 of the Covenant states merely that the Assembly shall meet from time to time and as occasion may require. Apparently, from the character of the discussions in the League of Nations Commission of the Peace Conference, it was never contemplated that the Assembly should meet oftener than once every four years. In fact, it would seem more probable that it was expected to convene only in emergencies or for spectacular events. By trying to imagine the absolutely insignificant role which the Assembly would have played in the League system if it had allowed the situation to develop in this manner, the tremendous significance of its decision for annual sessions can be more fully realized. Arthur Sweetser, a qualified student

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1. Records, First Assembly, Plenary Meetings, pp. 236-241. (See Appendix I for Assembly Rules of Procedure.)

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of League development, speaks of this step as "almost certainly the most important decision taken in League development, and probably in general international development, since the War."[2] To put it briefly, this decision has enabled the Assembly to acquire authority and influence which would otherwise have been wholly beyond its reach. In the first place, without annual sessions, the Assembly could never have assumed control over the League Budget. The importance of that power in connection with the position of the Assembly within the League has already been demonstrated. Again, this decision prevented a recurrence of the old Concert of the Great Powers system of the post-Napoleonic era. If the Assembly were not to meet annually, the Council would have become the outstanding organ of the League, and without the check provided by the Assembly, it would surely have become the re-embodiment of the Concert system, but slightly enlarged. That the arrangement which actually developed as a result of this decision by the 1st Assembly has been a better one, is so obvious as to need no demonstartion. The position and the power of the smaller States in the conduct of international affairs has been greatly enhanced, with almost invariably good results. Thirdly, annual Assembly sessions have tended to give that body a more legislative character than would otherwise have been possible; and as a result have enabled it to lay down the general lines of policy which the various League organs are to follow from year to year. In this connection, it seems safe to say that the progress actually made by the League would have been

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2. Sweetser, Arthur - The First 10 Years of the League of Nations. Pamphlet 256 of Carnegie Endowment for Int. Peace. p. 17.

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far less, were it not for this power of the Assembly to energize other League organs, which power has been possible only because of regular annual sessions. Finally, the continuity given to the Assembly by the fact of annual sessions has been a development of signal importance, one again which was a potent factor in its evolution to a predominant position within the League. Had Assembly sessions been, for instance, four years apart, all projects initiated in a particular session would probably have died with the same session. The progress not only of the Assembly but of the entire League would have been considerably diminished. This point was well brought out in the Seventh Assembly by M. Moltke, the first delegate of Denmark: "Apart from its direct action in any given matter, the League exercises a further influence by reason of its fundamental qualities, its very existence as an instrument of good, its permanence, and its receptivity to ideas which serve the great cause of peace..... Formerly, Conferences were held; sometimes their purpose was attained, but sometimes they proved abortive, or the situation remained uncertain and unsolved. The incontestable merit of the League is that its voice has always been heard urging the same principles during its seven years of existence. Even when a proposal was not adopted in its original form, it has been possible to continue the discussion and resume the thread, thanks to the experience acquired. Many ideas and principles incorporated in proposals which have not been fully carried out still persist and govern our proceedings."[3] Obviously, annual sessions mean much.

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3. Official Journal, S.S. 44, pp. 38-39.

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As adopted by the First Assembly, Rule One also provided that the annual meeting of the Assembly should commence on the first Monday in September. This provision has proved of importance not only in the matter of suitable climatic conditions for the Assembly to carry on its work, but also in that it has a bearing on the character of the delegations to the Assembly. It has made possible the steady increase which has taken place since 1924 in the number of Foreign Ministers and Premiers and other important government officials who attend the sessions of the Assembly. Government leaders are very busy men during the greater part of the year, especially when their parliaments are in session. So if the Assembly were to meet at such a time, the natural tendency would be for the Governments to send minor officials, with a consequent diminution of the prestige of the Assembly as well as a retarding effect on the progress of its work; for subordinate officials would not feel so free to make decisions without specific instructions from their superiors. In September, just before the usual fall opening of many parliaments, the high government officials are perhaps more free from domestic occupations than at any other time.

In 1930, the Assembly altered the date of the regular session opening from the first Monday in September to the second Monday, provided that the second Monday did not fall later than the tenth of the month. If it should fall later, then the session is to begin on the first Monday.[4] This amendment to the Rules of Procedure was made to regularize still further the

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4. Official Journal, S.S. 84, p. 494.

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opening date of the Assembly. Under the rule as first adopted the session might open on any day from the 1st to the 8th of September, but under the amended rule, the opening date can vary only between the 4th and the 10th. This new rule operated, however, only in 1931. In 1932, the Special Session voted to postpone the opening of the regular session of that year to the 26th of September, for reasons connected with the handling of the Sino-Japanese dispute by the Special Session.[5] Then, in 1933, after private consultation with the Member States, through the Secretary-General, it was decided to defer the opening to the 25th of September. The reason in this case was to prevent conflict between the opening of the Assembly and the reopening of the Disarmament Conference (the latter was scheduled for the 10th). This postponement did not pass without complaint, however. The delegate for Sweden, M. Sandler, voiced the opinion of several States when he said, "It is dangerous to set a precedent making it possible to postpone the Assembly of any year to any date at all, for reasons of expediency, for there is little enough confidence in the world. We look upon the annual Assembly as a stabilising factor in international life. If difficulties arise in connection with other conferences, let them rather than the Assembly be adapted to expediency."[6]

As to the time of day at which the Assembly meets, there is no regular rule. It can be said, however, that the most efficient use possible is made of the time. The preliminary work and

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5. Official Journal, S.S. 101, p. 25.

6. Journal, 14th Assembly, 4th Meeting, p. 2.

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the annual debate on the general report consume about the first week or ten days of the session, and during this period there are both morning and afternoon meetings, and sometimes even evening meetings, if they should prove necessary. Then the six regular committees get down to business, and during this stage plenary sessions are adjourned, and all attention concentrated on committee work. The committees also hold both morning and afternoon meetings, and frequently evening meetings as well. Finally, the plenary body resumes its session, to act upon the reports and resolutions proposed by the committees, and as before it is usual to have meetings in both the morning and the afternoon. The entire session generally lasts about four weeks, a very brief period, considering the amount of work done by the Assembly. Of course, it should be realized that the delegates are also important government officials as a rule, and can hardly be expected to give more than a month of every year to the work of the Assembly. As a result, there is an almost continuous pressure on the Assembly and its committees to get through their tasks as rapidly as possible; but this pressure has frequently been the subject of complaint by certain delegates who are not so rushed.[7] As a matter of fact, it has produced several undesirable effects. In the first place, it has given the work of the Assembly an appearance of mere formality, of something to be hurried through and forgotten about. As one of the delegates put it in 1929, if the Assembly doesn't appear to take its own work seriously, it cannot make any complaint when others take a similar

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7. See, e.g., Official Journal, S.S. 78, pp. 100-101.

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attitude of indifference.[8] In the second place, this haste has undoubtedly been partially responsible for the slowness with which Governments have carried out Assembly resolutions or ratified conventions drawn up under Assembly auspices. It has sometimes happened that the Assembly has hurried a resolution through without having given it the proper consideration and care, and naturally, when the Governments examine it, they find faults, if not errors, and neglect to act upon it. In 1930, the First Committee, after examining the problem of ratification of conventions, was forced to report: "It is hardly possible to insist on the ratification of conventions which, being neither well prepared nor satisfactory, do not merit ratification, or which it is very difficult to accept."[9] In short, this problem of the pressure of time, although it has resulted in several administrative improvements, still remains unsolved. It seems clear that either the length of Assembly sessions must be increased, or the burden of Assembly work lightened.

Another fact of importance contained in #1 of the Rules of Procedure of the Assembly is the provision that the sessions of that body be held ordinarily at the Seat of the League. Rule 2 provides that in exceptional circumstances sessions may be held "at such other place as is designated by the Assembly, or by a majority of the Council, or as is approved by a majority of the Members of the League."[10] To the present, however, Rule 2 has

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8. Official Journal, S.S. 78, pp. 100-101.

9. Official Journal, S.S. 85, pp. 71 et seq.

10. See Rules of Procedure, appendix.

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never been invoked. All the sessions of the Assembly have been held at the Seat of the League, Namely, Geneva, Switzerland. Geneva, probably more than any other city in Europe, provides a traditionally internationalist atmosphere, one proper for the harmonious working of the Assembly. This is not the place to discuss purely psychological influences, but at least it can be mentioned that the selection of Geneva, free as it has been from the bitternesses and intrigues of the period before 1918, was undoubtedly the wisest choice possible for the capital of a system of international cooperation such as the League.

But, though the selection of Geneva was a wise one, the Assembly has had difficulty in finding in that city a building suited to its needs. From 1920 to 1930 it made use of a Geneva concer t hall known as the Salle de la Reformation. This building was hardly adequate in material arrangements and in acoustic requirements, and still more important, was located at some distance from the offices of the Secretariat and the committee rooms, which were in the Palais des Nations, the old Hotel National. From 1930 until the present, Assembly sessions have been held in the Batiment Electoral, which is larger and of more modern construction than the Salle de la Reformation, but which, on the other hand, is even more distant from the Palais des Nations. However, there is now under construction a new Palace of the Nations, in which provision is made for an Assembly Hall better adapted to meet the requirements of the Assembly, especially in that the committee rooms will be adjacent to the conference chamber, thus making for a more efficient conduct of business. It is not to be expected, however, that the

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completion of the new building will bring any essential changes in the internal arrangements; so a description of the present set-up may not be wholly valueless.

The hall being used at present is a large rectangle, at one end of which stands the presidential tribune, occupied by the President of the Assembly, the Secretary-General and his chief assistants, together with the interpreters and stenographers. Immediately before the presidential tribune, and on a slightly lower level, stands the speaker's tribune, from which all speeches and addresses to the Assembly are made. In this respect the Assembly arrangement resembles the French system more than the English or American. In the latter two, the speakers make their addresses from their places rather than from a speaker's tribune. The effect of this arrangement in the French Chamber of Deputies has been, according to many students of the French system, that the debates have taken on a more purely oratorical character. Whether the same effect has resulted in the Assembly is doubtful; at any rate, it is certain that a great deal of oratory is delivered from the Assembly tribune, as we shall see later.

The body of the hall is filled with the desks of the official delegates from the various Member States, not more than six desks being allotted to any one delegation.[11] The unique

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11. This arrangement was made in 1927, when the maximum number of seats for each delegation was fixed at six. Previously, it had been three. Of course, this did not affect the size of the delegations, other arrangements having been provided for substitutes, etc, before 1927. See Official Journal S.S. 54, p. 54.

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feature is that the desks are arranged alphabetically according to the French names of the countries represented. Thus, South Africa (Afrique du Sud), Germany (Allemagne), Australia and Austria are well up towards the front, while Uruguay, Venezuela and Jugoslavia find themselves in the rear. In this regard, the Assembly has followed the arrangement of other international conferences in adopting what is probably the best solution available of the delicate problem of precedence. Places for substitute delegates, advisers, technical experts and secretaries of delegations are provided along the sides of the ground floor of the hall, but their number is too great, and the hall too small, for their facilities to be at all adequate. Finally, there is a gallery where a special place is provided for the representatives of the world press; and for the rest, the gallery is open to the general public, but with the restriction that admission is by ticket only.

The maintenance of order in the Assembly apparently offers much the same difficulties as in the case of a national legislative body. The delegates seem to have the same inability as national legislators to keep quiet or to remain seated during the speeches in the plenary sessions. But the President of the Assembly does not have such wide jurisdiction in the keeping of order as, for example, the Speaker of the House of Commons. The practice followed has been for the General Committee of the Assembly to make recommendations for approval and observance by the Assembly. For instance, in the Seventh Assembly, it was decided that no applause should be permitted in the galleries reserved

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for the Press and the public.[12] In passing, it might be remarked that this was a very wise decision. The public, as it attends Assembly meetings, might be apt to play favorites in the distribution of its applause, with undesirably results upon the atmosphere in which the Assembly must work. Also, at this Seventh Assembly, on the proposal of the General Committee, the following regulations were adopted: "Between the end of a speech and the translation, an interval of one or two minutes will be allowed, to enable anyone not wishing to listen to the translation to leave the Assembly Hall. The doors of the Press and the galleries will be kept strictly closed, except during the interval between two speeches or between a speech and its translation. Attendants will check any conversation and movement among the members of the public during speeches and translations."[13] But, though these regulations may have had an effect in the galleries, they apparently went unheeded so far as the delegates themselves were concerned. In the next Assembly the General Committee renewed its appeal to the delegates not to walk around or converse with their advisers and secretaries during the speeches.[14] The same appeal had to be re-renewed in succeeding sessions, and apparently will have to be continued in the future, for the delegates, like the members of a national legislature, find it impossible to maintain even a reasonable degree of order.

One of the greatest difficulties connected with the

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12. Official Journal, S.S. 44, pp. 37-38.

13. Ibid, pp. 60-61.

14. Official Journal, S.S. 54, p. 54.

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question of material arrangements of the Assembly has been the language difficulty. In the first session of the Assembly, after a serious attempt to make Spanish an official language of the League, French and English were definitely decided upon. But as a sort of compromise to the proponents of other tongues, it was provided that a delegate might address the Assembly in any language he desired; in this case, however, it was his obligation to furnish a translation of his speech in either of the two official languages.[15] Still, the existence of even two official languages creates a problem. The pressure on the time of the Assembly has already been noted; when it is realized that every speech delivered in the Assembly must be translated, the problem of having two languages becomes obvious. Far too much valuable time is consumed in translation. This problem was attacked in 1930 with some success. On the proposal of a Special Committee appointed to examine the possibilities of improving the conditions under which the Assembly worked, a system of simultaneous telephonic translation was installed as an experiment. A set of ear phones was provided for each delegate, to be used whenever necessary. Thus the time of work of the Assembly could be practic ally halved.[16] However, little use seems to have been made of this device, for in the 1932 Assembly the Special Committee so reported, although advocating its continuance, especially for speeches delivered in a third tongue. As an alternative time-saver, the Committee proposed that all delegates

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15. See Rules of Procedure, Rule 16.
16. Official Journal, S.S. 84, pp. 129-130.

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who expected to deliver fixed addresses (which is usually the case in the general debate) might well have copies and translations made beforehand by the Secretariat, and distributed to the delegates just before being delivered, thus obviating the need of oral translation by the interpreter in such cases.[17] The system of simultaneous translation, however, seems to be best. It removes entirely the waste of time due to the setting up of two official languages, although it does place a much greater burden upon the Secretariat. It is probable that in the future that system or some modification of it will be more fully used.

Finally, the publicity of Assembly meetings is a factor of very great significance. Rule 11 of the Rules of Procedure provides that "the Public shall be admitted to the plenary meetings of the Assembly, by cards distributed by the Secretary-General. The Assembly may, however, decide that particular meetings shall be private. All decisions of the Assembly upon items on the agenda which have been taken at a private meeting shall be announced at a public meeting of the Assembly."[18] One of the most important functions of the Assembly is that of providing a world forum, an agency for the expression of views on international problems. As such an agency, for the formation of world public opinion, the Assembly is unequalled. The Press is given every facility, and the leading newspapers of practically every major country in the world are always represented at Assembly meetings. These meetings are large enough, and important enough,

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17. Official Journal, S.S. 104, p. 72.

18. See Rules of Procedure, Rule 11.

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to be good press material, and it is only through the press that the Assembly can reach public opinion throughout the world. Of course, so long as national Governments exercise control over the press within their territories, and subject it to a vigorous censorship, this function of the Assembly cannot operate very efficiently. But with this barrier removed, the potentialities for the League, and especially for the Assembly, become very significant. All the ramifications of this Assembly function, however, depend upon continued publicity for its work. The first delegate of Brazil explained the position of the Assembly as an agency in the formulation of public opinion very well in the session of 1924 : "When there is question of pointing out injustice, of attempting to employ moral force in the interests of greater justice, there is no book, no newspaper, no diplomatic note which is comparable to the speaker's tribune of the Assembly. From that tribune, the orators spoke out this year to fifty-four Nations, forty-nine of which were represented through special delegates; three Prime Ministers and fifteen Foreign Ministers were also present. More than two hundred journalists carried all through the civilized world the reports, the decisions, and the impressions of Geneva, and many pacifistic associations had observers or delegates to represent them, especially those from North America. Thus there reigns in the Assembly a publicity without equal, either as to quality or quantity ..... The judges are fifty-four Governments, the audience is the whole civilized world."[19]

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19. Official Journal, S.S. 21, pp. 82-83.

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2. Membership and Representation

The Assembly, as has previously been mentioned, is the most representative organ of the League. Membership in the one connotes membership in the other. This is according to Article 3 (1) of the Covenant, which reads: "The Assembly shall consist of representatives of the Members of the League." As to who are the Members of the League, this is provided for in Article 1: "The original Members of the League shall be those of the signatories which are named in the Annex to this Covenant, and also such of those other States named in the Annex as shall accede without reservation to this Covenant..... Any fully self-governing State, dominion, or colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly....." From this article it is clear that the Assembly is composed of representatives of the Governments of "fully self-governing States, dominions, or colonies", for the Assembly, like the central organ of a confederation, has no direct connection with the peoples of States. It cannot go behind the national Governments. For this reason, it is conceivable that the Assembly might find itself in a delicate situation, in the event of a dispute between two factions in a Member State, and the appointment by each of representatives to the Assembly. What precedure the Assembly would follow in such a case is uncertain, for the situation has not yet arisen. But its possibility is recognized by this provision in Rule 5 of the Rules of Procedure: "Any representatives to whose admission objection has been made shall sit provisionally, with the same rights as other

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representatives, unless the Assembly decides otherwise."[20] By this provision the Assembly apparently claims two rights, first, to decide any question of "disputed elections", if this term be permitted, and secondly, to refuse to admit representatives before the dispute has been decided. On the other hand, where there is no such case of a disputed election, it appears that the Assembly has no right to exclude the representatives of any State, for any reason whatsoever, so long as the State in question is a Member of the League, and the representatives have been properly appointed by the duly authorized Government. If, for instance, a State for some reason decided to pursue obstructive tactics in the Assembly, that body would have no legal means of preventing it. Or, a State might wish to make something known through the medium of the Assembly which would be most distasteful to the other Members; it could not be stopped. In short, the power of the Assembly over its membership is quite similar to that of some national legislatures, such as, for instance, the American House of Representatives. Like the latter, the Assembly has the power to decide cases of disputed elections; also like the latter, it cannot exclude a duly appointed representative for any reason. Unlike the national legislature, however, the Assembly cannot expel fractious members, or those who perpetrate flagrant violations of its decorum and its dignity.

The selection of delegates to the Assembly, as might be expected, is a matter completely beyond its control. The Covenant merely provides, as seen above, that the Assembly shall

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20. See Rules of Procedure, Rule 5.

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consist of representatives of Members of the League. In other words, the Member States are left absolutely free to appoint whom they choose, and by any method they choose. The First Assembly itself admitted its lack of control in this respect. In the Report on the Relations between the Council and the Assembly, this statement is found:"The Assembly has no right to interfere with the choice which a Member of the League may make of persons to represent it, nor to prevent a representative from saying what he pleases; but it is essential that it be thoroughly understood that when a representative votes, the vote is that of the Member which he represents, whether in the Council or in the Assembly."[21] Also at the First Assembly, the Secretary-General, in connection with the work of examining the credentials of the delegates, suggested that the Assembly might find it desirable "that the question be studied in due course, so that some general principles may be framed for the guidance of Members in the future, in the designation of their delegates". To this suggestion, M. Tittoni, the Italian delegate, made strong objection: "There must be no question of trying to limit the rights of States. We have merely to verify their credentials from the point of view of the legal validity of the nominations. Any other form of investigation would be an interference with the sovereignty of States, which is expressly guaranteed by the Covenant."[22] Thus, ended the first, and the last, effort to gain for the Assembly any control over the selection of its members. As a matter

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21. Records, First Assembly, Plenary Meetings, p. 284.

22. Ibid, pp. 20-21.

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of fact, it is highly doubtful whether, under existing conditions any rules could be laid down for the selection of delegates to the Assembly. Different governments have different constitutions, and the requirements may be very different. For example, in the United Kingdom, the Prime Minister makes the appointments. In most Latin-American countries, legislative confirmation is required. In Abyssinia, the King has the appointive power. So long as the Assembly cannot dictate as to the constitutional forms of its Members, it cannot, even with their consent, lay down any except the most general rules in regard to selection of delegates.

It has been suggested that the position of the Assembly would be much advanced if its members were chosen by direct popular vote.[23] It is argued that the peoples of the world cannot regard the Assembly as representative of them, and responsible to them, so long as they have no direct connection with it. There can be no doubt that the prestige and influence of the Assembly would be greatly augmented if some system of election of its members directly by peoples could be worked out. But the practicability of the idea is highly doubtful. In the first place, the consent of all the national Governments would be necessary; and they are not very likely to give this consent, unless an overwhelming wave of public opinion forces them to do so. In the second place, it would seem necessary to make some alterations in the principle of equality of States, for it is not likely that the people of large and powerful States would be satisfied to elect only the same number of delegates, with the same voting

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23. Professor Alfred Zimmern, for example.

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power, as the people of a small State like Estonia or Latvia. In the third place, there would be a very great expense involved in holding such an election practically all over the world. Finally, there is room for doubt as to whether such an election would serve any real purpose. Elections in each State would in all probability be along party lines, and it is fairly certain that those victorious in the national elections would likewise be victorious in the elections for the Assembly. In other words, the delegates to the Assembly who are chosen under the present system are probably just as much representative of their peoples as would be the case if they were popularly elected.

Looking back, then, it appears that, in regard to the selection of delegates, the Assembly is in a position generally comparable to that of the central legislature of a federal government. Of course, there is no resemblance to a unitary government, where the central body makes all laws and regulations connected with elections. But if we take the case of the United States before the Civil War, we find that Congress had no control over the selection of its members at all. Election procedure, qualifications for voters, method of elections, all were left completely in the hands of the States. This is still generally true, except as limited by the Civil War amendments and the suffragist amendment, which curtail the freedom of the States in certain respects. At any rate, it should be clear that the Assembly's lack of control over the selection of delegates to itself is not at all a sign of very serious weakness.

As seen previously, it was decided early in the work of the League Commission of the Peace Conference to put into

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the Covenant a limitation on the number of representatives allowed to each State. The number finally agreed upon was three, and the limitation was put into Article 3 of the Covenant. The practical purpose of this limitation was to safeguard the interest of the smaller Powers. With no restriction as to the number of representatives, it was feared that the larger, wealthier States would send very large delegations, and thus acquire an undue amount of influence in the Assembly. As the situation has actually developed, however, the restriction has accomplished very little. At the very first Assembly, the practice began of sending, besides the three "official" delegates, large numbers of substitute delegates, technical experts, military advisers, secretaries, special press bureau members, and so on. This same first Assembly recognized the practice in its rules of procedure. Rule Five reads: "Each Member shall communicate to the Secretary-General, if possible before the date fixed for the opening of the Session, the names of its Representatives, of whom there shall be not more than three. The names of Substitute-Representatives may be added." Rule 6 contains the following provisions: "(1) In addition to the Substitute Delegates mentioned in paragraph 1 of Rule 5, the Representatives of a Member of the League attending the Assembly, acting together as a delegation, may appoint substitutes. Any such appointment shall be communicated in writing to the President. (2) A Substitute-Representative appointed by a Member of the League may take the place of a Representative without nomination by the Representatives. (3) A Substitute-Representative or a substitute may take the place of a Representative who is absent

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from a meeting of the Assembly or is temporarily prevented from taking part in its deliberations, but if the Representative is present at the meeting, the Substitute-Representative or substitute is only entitled to assist him. (4) A Delegation may appoint for service on a committee a deputy or technical adviser other than those referred to in the above paragraphs of this Rule; but a deputy or adviser so appointed shall not be eligible for appointment as Chairman or Rapporteur of the committee, or for a seat in the Assembly."[24] Practically, then, there is no limitation on the size of a State's delegation to the Assembly, although there can be not more than three "official representatives." The actual developments have been just as the smaller Powers feared. The Great Powers send very large delegations. France usually tops the list, with well over twenty. The United Kingdom and Italy run a close second and third. China and Japan, as well as the larger European States, are also very well represented as a rule. At the nether end of the list are generally found several Latin-American States. A fairly typical list is that of the Ninth Assembly. The delegations numbered as follows:

France	-----	26
Italy	-----	25
Japan	-----	25
United Kingdom	----	24
Poland	-----	22
Germany	-----	21
Hungary	-----	18
Spain	-----	14
India	-----	14
Belgium	-----	13
Cuba	-----	13
China	-----	12
Canada	-----	12

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24. See Rules of Procedure, Rule 5 and 6.

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Denmark	----	11
Finland	----	11
Roumania	----	11
Yugoslavia	----	11
South Africa	----	11
Czechoslovakia	----	10
Greece	----	10
Netherlands	----	10
Norway	----	9
Persia	----	9
Sweden	----	9
Siam	----	8
Switzerland	----	8
Australia	----	7
Austria	----	6
Chile	----	6
Colombia	----	6
Irish Free State	----	6
Portugal	----	6
Venezuela	----	6
Latvia	----	5
Luxembourg	----	5
Uruguay	----	5
Abyssinia	----	4
Estonia	----	4
Lithuania	----	4
New Zealand	----	4
Albania	----	2
Bulgaria	----	2
Dominican Republic	---	2
Liberia	----	2
Nicaragua	----	2
Paraguay	----	2
Guatemala	----	1
Haiti	----	1
Panama	----	1
Salvador	----	1

25(footnote)

The character of the delegations is even more interesting. As might be expected, the predominant characteristic of all the delegations is their connection with their respective governments. In other words, they are primarily governmental in character. However, there are some exceptions. For example, in the Assembly of 1932, Australia sent a Professor as a Substitute-Delegate, Austria sent a practising lawyer,

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25. Official Journal, S.S. 64, pp. 10-20.

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Canada sent a woman with no governmental position, Denmark sent the Vice President of the Danish Council of Women, France sent several university professors as experts, India sent a professor, Norway sent a doctor of medicine, and Switzerland sent a professor.[26] These few examples show at least a tendency towards technical rather than bureaucratic national representation. No doubt the tendency is due in no small measure to the expansion of League work into various technical fields, and the realization by Governments that their own interests can be promoted better by able representatives of social classes than by purely governmental officials. Further, the practice of several States, especially Great Britain, the Dominions, and the Scandinavian countries, to include a woman among their delegates, should be noted. In 1930, Countess Apponyi of Hungary was elected Chairman of the Fifth Committee;[27] thus for the first time a woman was named to an office at the disposal of the Assembly.

But these tendencies, it is to be emphasized, are as yet nothing more than tendencies. The delegations are still composed primarily of government officials. Within this single category, however, a change has occurred since 1920 which has been of decisive importance in enhancing both the position of the Assembly within the League and its prestige throughout the world as a whole. From 1920 to 1924, the delegations were composed mainly of subordinate officials, drawn almost wholly from the diplomatic service. The Assembly was in fact as well as in

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26. Official Journal, S.S. 104, pp. 9-20.

27. Official Journal, S.S. 89, p. 8.

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theory little more than a diplomatic conference. But in 1924, the first Labor Government of Ramsey Macdonald was set up in Great Britain; and Mr. Macdonald signified his intention of attending the meeting of the Assembly in person. The result was a surprising increase in the number of Prime Ministers and Foreign Ministers in attendance at the 1924 Assembly. The development begun in that year has continued ever since. A chart given in Morley's treatise on the League will indicate this development more in detail:[28]

Cabinet Participation in Assembly Delegations.

Year	No. of States represented	No. of Premiers or Foreign Ministers heading Delegations	% Headed by Premiers or For. Mins.
1920	47	6	12.8
1921	45	8	17.8
1922	48	9	18.8
1923	50	6	12.0
1924	51	22	43.1
1925	50	17	34.0
1926	49	18	36.7
1927	49	22	44.9
1928	50	22	44.0
1929	53	26	49.1
1930	52	26	50.0
1931	52	24	46.2
1932	53	25	47.1

The significance of this tendency in respect to the position and prestige of the Assembly is obvious. As expressed by the delegate of the Netherlands in the 1925 Assembly, its implications are made very clear: "Personal contact plays a most important part in the relations between Governments. Never in all history has so favorable an opportunity been offered for meeting and discussing the various questions which concern them,

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28. Morley, op. cit., p. 580. (the data for 1932 and 1933 are not included in Morley's book.)

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in an atmosphere of calm, without any danger of public opinion becoming alarmed. If for no other reason than this, our Assemblies at Geneva would be of benefit to all countries."[29] Or, as Briand put it in 1927: "I am told that there are over a score of Foreign Ministers here. Such persons obviously can not remain unacquainted with one another; they naturally gravitate towards each other. They think that a talk together may perhaps do more to settle a difficulty than the exchange of a whole sheaf of telegrams. And so they talk, and settle their affairs in the united interests of the whole world..... Is not the fact that they come here to share in our debates for days and weeks a tribute to the greatness of our institution?"[30]

However, there is a danger in the presence of so many important government officials in the Assembly. It cannot be better explained than by quoting the Irish delegate who voiced it in the Assembly of 1929. "We have always regarded the presence here at Geneva of the leading statesmen of the world, and the repeated pronouncements by them in favor of the peaceful settlement of disputes and the condemnation of war, as of inestimably value; but if these words and professions, however sincere, are not followed up by the appropriate action, they first lose their effectiveness, and eventually can become harmful, as conveying to public opinion, which is interested in these matters, that words and actions have no connection here; that statements are not seriously meant, or that the Assembly is so ineffective

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29. Official Journal, S.S. 31, p. 47.

30. Ibid., S.S. 54, p. 90.

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that it can and ought to be ignored."[31] There is at least a grain of truth in this. When the Assembly passes resolutions, and approves conventions, with the expressed consent and praise of those Prime Ministers and Foreign Ministers, and then no results are forthcoming in their respective States, it would really seem that their pious statements made in the Assembly are not seriously meant, or that they regard the Assembly and its resolutions with little respect. In such a situation, it would doubtless be better to send subordinates, who would not be so free with their expressions of approval. Then the progress made by the Assembly, while considerably slower, would also be considerably more certain.

This leads us to the question - how intimate is the connection between delegates to the Assembly and their home Governments? As might naturally be expected, the connection is ordinarily very close. The national Governments are in a position to know practically every item that will appear on the agenda of the next Assembly some time beforehand, and can therefore give their delegates specific instructions on what attitude to take and what activities to promote. But it sometimes happens that new items arise during a session, or a new turn is taken in respect to items already on the agenda, and it is not always possible for the delegations to secure detailed instructions from their Governments; this is especially true of the distant, non-European delegations. In these circumstances, the delegates usually do one of two things: they abstain from voting, or they vote as they expect

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31. Official Journal, S.S. 75, p. 110.

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their Governments would instruct them to vote.

At the very first Assembly, this issue of whether the delegates were to be delegates merely, or real representatives, was put to the test by Mr. G.N. Barnes, a Laborite member of the British delegation. Not once, but several times, he arose to say that he "wanted to know why action has not been taken under the provisions contained in Article 11 of the Covenant, having regard to the fact that war has been going on more or less for a year between Poland and Bolshevist Russia,"[32] or to "protest against what I consider to be a policy of hush-up in regard to the war between Soviet Russia and Poland."[33] Obviously these sentiments so audibly expressed by Mr. Barnes were not wholly in harmony with the official sentiments of his Government. At any rate, Mr. Barnes discovered that delegates to the Assembly were to be nothing more than delegates. As he put it himself, his outbreaks in the First Assembly "ended my career as Assembly delegate."[34] In 1922, M. Hymans, Belgian Foreign Minister, outlined the situation as follows: "In this Assembly, which is of a rather heterogeneous nature, and is neither a diplomatic conference nor a Parliament in the strict sense of the word, there is no doubt that we all have a certain measure of freedom and initiative. It has happened at times that delegates of certain countries have freely expressed from this platform purely personal opinions, which have even on occasion not been 100% in

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32. Records, First Assembly, Plenary Meetings, p. 151.

33. Ibid., p. 172.

34. Headway, Sept. 1930, vol. XII, # 9, p. 170. (quoted in Morley, op. cit., p. 571.)

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agreement with the opinions of their Governments. A certain measure of freedom is necessary, but when we act, we act and vote in the name of our Governments, and our Governments are bound by what we do. That is the foundation of the authority of the League of Nations."[35] How far the Governments are bound by the decisions of the Assembly we shall see later, in connection with the problem of ratification. But it can be mentioned here that it is only in matters connected with internal organization that the Assembly has a really binding power. For instance, the Assembly is the final authority with regard to allocation of League expenses, or in regulating its own rules of procedure. But in all questions of political importance, the Assembly has always been careful to do no more than"recommend" a policy for approval by the Governments, or "respectfully to suggest" that they follow a certain line of action.

Still, cases can be found where delegates have acted, especially in committee, without official instructions from their Governments. At the Sixth Assembly, the Danish delegation had introduced a proposal for the attachment of a Permanent Conciliation Commission to the Permanent Court; in the First Committee a great deal of opposition to the proposal arose, and the Danish delegate was asked to withdraw it. He explained that he had instructions from his Government not to withdraw it, but when the Colombian delegate suggested that it be referred to a "subsequent Assembly", he agreed to this suggestion without awaiting official instructions, even though it was quite obvious that the

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35. Records, Third Assembly, Plenary Meetings, P. 87.

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suggestion meant effective withdrawal of the proposal.[36] Again, in the Second Committee of the same Assembly, the French delegation proposed a motion urging early convocation of an International Economic Conference. The delegate from Belgium said that he fully supported the French proposal, for even though he had not had time to consult his Government, he felt sure that it would back up his approval.[37] Again, in the Third Committee of the Eleventh Assembly, in the debate on the Draft Convention of Financial Assistance, the Japanese delegate made this statement: "If the majority of the Committee is in favor of the Finnish or the Netherlands proposal, I shall not raise any obstacles. I have not had time to consult my Government, but on my own responsibility I shall refrain from insisting on our former text, which I prefer."[38] These examples indicate that it is quite possible for delegates sometimes to assume the character of real representatives, but it happens only rarely, and then only in regard to questions of secondary importance.

Another important question in connection with the delegations to the Assembly is that of their continuity. Obviously, if the national delegations would change almost completely every year, the efficiency and activity of the Assembly would be considerably impaired, for it would take the new members the whole four weeks of the session to become accustomed to the organization and methods of the Assembly. Besides, if the same

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36. Official Journal, S.S. 34, p. 14.

37. Ibid., S.S. 35, p. 48.

38. Ibid., S.S. 87, p. 22.

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delegates were to be sent from year to year, those from the different countries would soon become well acquainted, and this in itself would tend to promote a more liberal, cooperative spirit.

An examination of the delegations from 1920 to 1933 shows that no general conclusion is possible. There has been considerable continuity in some delegations, and considerable lack of it in others. The European delegations generally have shown the greatest continuity. To mention a few of the outstanding figures participating regularly in the work of the Assembly, there are Briand and Paul-Boncour of France, Scialoja and Grandi of Italy, Chamberlain and Cecil of Great Britain, Politis of Greece, Benes of Czechoslovakia, Titulesco of Roumania, Motta and Rappard of Switzerland, Loudon of the Netherlands, Hymans of Belgium, Apponyi of Hungary, and Pouilly-Dietrichstein of Austria. Germany seems to have been an exception, for after the death of Stresemann, there was no regular outstanding figure in her delegation. As for the non-European countries, a considerable degree of continuity in Representation has been attained by another method, namely, the appointment of the permanent representatives to the League as delegates to the Assembly, or, in the case of the most distant countries, such as China and Japan, of diplomats accredited to nearby European capitals. For example, in the Assembly of 1932, no less than 18 countries included in their delegations their permanent representatives accredited to the League of Nations, and a great many more appointed their diplomatic officials accredited to the various European capitals.[39] A statement of the Canadian delegate

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39. Official Journal, S.S. 104, pp. 9-20.

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in the 1930 session indicates the general situation. He said: "While much might be said in favor of a certain continuity in the national representation in this Assembly, regard must nevertheless be had to changing political conditions in a democratic country like Canada. It is of primary importance that the views of the Government of each country upon the various questions which arise should be authoritatively laid before the Assembly. It is a matter of satisfaction to all Members of the League, however, that notwithstanding the infusion of a certain amount of new blood annually in this Assembly, yet the names of many of the great statesmen who have hitherto largely guided its deliberations are still found upon the rolls of the Eleventh Assembly."[40] The same statement might well be made of any national legislature, in regard to continuity of membership. The Assembly is not unique; it shows very much the same continuity as any legislative body, with much the same results upon its efficiency and its activities.

3. Offices and Honors of the Assembly.

The highest office, and at the same time the most exalted honor at the disposal of the Assembly is its Presidency. The President is elected early in each session, for that particular session only, by vote of the whole Assembly. In view of the honor associated with the office, one would expect considerable rivalry and preliminary politics to secure it. Further, in view of the lack of intimate relations between the various delegations,

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40. Official Journal, S.S. 93, p. 51.

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one might reasonably expect that the choices of the Assembly would not always be wise ones. Both these difficulties are removed through the medium of the Secretariat. Morley, on the basis of personal observation, explains the part of the Secretariat as follows: "Careful preliminary work is done in the Secretariat, under the direction of the Secretary-General himself, to insure that the presiding officer to be elected shall be both popular and a judicious parliamentarian. To avoid jealousy among the Great Powers the Secretariat nomination is invariably offered to the leading representative of a secondary State. The extent of the preliminary electioneering in this field is shown by the fact that there has never been any real contest over the presidency of the Assembly, and that the Secretariat nominee generally receives at least 90% of the votes cast, with consequent elections on the first ballot..... An Assembly session might encounter grave difficulties at the outset if the candidate of the Secretariat were turned down, and a protracted fight initiated between favorites of different groups, none of whom in such circumstances would be assured of the majority necessary for election."[41]

The records generally bear out Morley's conclusions. Only once was a second ballot necessary. In 1921, nominations were accepted from the floor. Four were made, before Balfour of Great Britain could get in a motion that the election be held with no nominations beforehand. His motion passed, and the vote was taken. All four of the candidates named received votes, but

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41. Morley, op. cit., p. 566.

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none a majority. So, in accordance with the Rules of Procedure, a second ballot was taken between the two highest, and M. Van Karnebeek of the Netherlands received a clear majority.[42] Further, on several occasions, the election was very close. The figures will show the distribution of the office among the smaller Powers, as well as the closeness of some of the elections:

Year	Candidate Elected	Total Vote	His Vote
1920	Hymans - Belgium	41	35
1921	Van Karnebeek-Neths.	42	majority
1922	Edwards - Chile	44	42
1923	Torriente-Cuba	45	24
1924	Motta-Switzerland	47	45
1925	Dandurand-Canada	46	41
1926	(Sp)Du Costa-Portugal	48	36
1926	Nintchitch-Yugoslavia	48	42
1927	Guani - Urugauay	47	24
1928	Zahle - Denmark	50	44
1929	Guerrero-Salvador	51	43
1930	Titulesco-Roumania	50	46
1931	Titulesco-Roumania	49	25
1932	(Sp.) Hymans-Belgium	47	45
1932	Politis-Greece	50	44
1933	te Water-S.Africa	53	30

In one other respect Morley's analysis may be opened to question. There is no possibility of a "protracted fight between favorites of different groups." Rule 21 of the Rules of Procedure provides that "all decisions relating to individuals shall be taken by a secret ballot. If, when one person is to be elected, no one person obtains at the first ballot an absolute majority of votes, an entirely new ballot shall be taken, but on this ballot voting shall be confined to the two candidates who obtained the largest number of votes on the first ballot. If there is at this ballot an equality of votes for the two candidates,

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42. Records, Second Assembly, Plenary Meetings, pp. 26-29.

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the elder candidate shall be declared elected."[43] In view of this provision, a President would always be elected after not more than two ballots. Clearly, there could be no long-drawn-out struggle between blocs in the Assembly for the office. At any rate, there seems to be nothing wrong with the present arrangement. Political maneuvering would go on inevitably in any case, and the Secretary-General is in a position to make a more impartial and capable nomination than any particular delegation or delegations. But the close contests in 1921, 1923, 1927 and 1931 indicate that his choice is not always agreeable to all the delegations. Further, in 1930, the Special Committee appointed to study improvements to facilitate the work of the Assembly, suggested a change in the method of electing the President. It proposed nomination of a few suitable candidates by a committee of the five most recent former Presidents. But the General Committee of the Assembly refused to adopt this suggestion, and no more was heard of it.[44]

Next to the President the most important officers of the Assembly are the Vice Presidents, of whom there are ordinarily twelve, six elected by vote of the whole Assembly and six who as Chairman of the six regular committees are ex-officio Vice Presidents. The vice presidency is more or less an honorary office, its only value being that it gives the holder a place on the General Committee. A significant characteristic of these offices is that five of them have gone invariably to the Powers-

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43. See Rules of Procedure, Rule 21.

44. Official Journal, S.S. 84, pp. 129-130.

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France, Great Britain, Italy, Germany, and Japan (until the two latter withdrew from the League). To make sure of this, the election of the six Vice Presidents by the whole Assembly is always put off until after the election by the committees of their Chairman, so that, if any of the Great Powers have been selected in the latter category, they need not be selected by the Assembly as a whole. The other seven Vice Presidencies are distributed in a rather haphazard manner, sometimes to pay personal tribute, sometimes in recognition of a helpful policy on the part of one or more smaller States, sometimes to maintain some sort of fair rotation. Following is a list showing the number of States whose representatives were elected to the Vice Presidency, and the number of times each was appointed.

9 times - Belgium
6 times - Canada, Netherlands, Spain, Switzerland
5 times - Yugoslavia
4 times - Czechoslovakia, Denmark, Portugal, Roumania, Sweden
3 times - Austria, Brazil, Chile, Norway, Persia, Poland
2 times - China, Colombia, Guatemala, Greece, Hungary, Irish Free State, Venezuela
1 time - Argentine, Australia, Bolivia, Cuba, Estonia, Finland, Haiti, India, Liberia, Lithuania, Luxembourg, Mexico, Nicaragua, Panama, Salvador, South Africa
not appointed - Abyssinia, Albania, Bulgaria, Dominican Republic, Honduras, Iraq, Latvia, New Zealand, Paraguay, Peru, Siam, Turkey, Uruguay.

In 1929 it was proposed by the delegations of Italy, Japan, Peru, Chile and Belgium to increase the number of Vice Presidents elected by the Assembly from six to eight. The reason they advanced was that since the original rule had been adopted, thirteen new Members had joined the League, and therefore an increase was necessary to make the Assembly "correspond to present conditions." After some debate, it was decided to postpone the

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decision until the next Assembly.[45] At the 1930 session, it was unanimously agreed that there should be no increase, the argument being that the General Committee would become too large and unwieldly[46] to perform its functions properly. However, at special sessions of the Assembly, when there are none of the six regular committees, the practice has been adopted of having eight Vice Presidents elected by the whole Assembly, the Great Powers, of course, receiving their usual share.

In addition to the Vice Presidents, there are the offices of Chairmen of the minor committees of the Assembly -- the Committee on Credentials and the Agenda Committee. The chairmen of these two committees, like those of the six regular committees, are chosen by the committees themselves. The Committee on Credentials regularly chose the first delegate of Cuba, Aguero y Bethancourt, as its Chairman, but the Agenda Committee most often elected a delegate from one of the States never named to a Vice Presidency, for example, Uruguay in 1921, New Zealand in 1923, Paraguay in 1928, Siam in 1930, Turkey in 1932, and Bulgaria in 1933.[47] This indicates how completely the Assembly follows a system of rotation in the distribution of its offices.

Finally, each of the six regular committees elects a Vice Chairman as well as a Chairman, the office being almost purely honorary. Briefly, the principle of rotation has been equally well observed in regard to this office.

There remains a question of some importance, which arose

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45. Official Journal, S.S. 75, p. 138.

46. Ibid., S.S. 84, p. 211.

47. See Records of Assembly, 1920-1933, Lists of Members.

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in the Special Assembly of 1932-1933, namely, whether or not elections to offices in the Assembly are purely personal, or whether they apply to States. In other words, could another delegate from the same country as the individual elected take the latter's place when he is absent? The question arose when the Special Session re-convened in December, 1932, and it was found that several of the Vice Presidents elected in the February preceding were absent. The only practical solution was adopted, and the heads of the delegations from the same States replaced the absent Vice Presidents.[48] Later, at the regular session of 1933, the Assembly approved the following regulation, proposed by the Norwegian delegate: "When proceeding to the election of the Vice Presidents of the Assembly, in application of Rule 7, paragraghs 1 and 4, of the Rules of Procedure, the voting papers should not bear the names of individuals, but should be marked 'the First Delegate' of such and such a country."[49] Of course, it is to be noted, this ruling is made to apply only to the Vice Presidents elected by the whole Assembly, so it would seem clear that the Assembly does not wish any of the other offices to be anything but personal. The election of the President, for instance, is and must remain a personal election, for it is not at all likely that the same delegation will contain more than one judicious parliamentarian fitted to handle the duties of President of the Assembly. The same holds true of the Chairmanship of the Committees. Clearly, then, it is only in

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48. Official Journal, S.S. 111, p. 21.

49. Journal of 14th Assembly, 5th Plenary Meeting, p. 1.

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the case of the Vice Presidents elected by the whole Assembly that the election is applicable to a State rather than to a particular person, even though the principle of rotation operates on a basis of States rather than persons.

In comparison with national legislatures, it is in this respect, namely, the distribution of honors and offices, that the Assembly differs very markedly from such a national legislative body. The first and most important difference lies in the preliminary procedure employed in regard to the Presidency of the Assembly. In the absence of any clear-cut party divisions in the Assembly it is the Secretariat which does the necessary maneuvering to secure majority agreement on a candidate. In a national legislature, on the other hand, it is the parties, whether two or many, that perform this function. A second difference lies in the use of rotation in the Assembly, the reason again being apparently a lack of party organization, for with clear-cut party divisions, as in a national legislature, the distribution would always be along party lines. In the absence of such lines, the Assembly must adopt the system most agreeable to all, and that is a system recognizing at least to some extent the principle of rotation. Undoubtedly, the application of this principle might frequently work against the selection of the ablest and most suitable men for the various offices. But in the Assembly, the training and generally high character of the delegates has largely removed this possibility. Furthermore, the Secretariat has been so efficient in preparing work for the Assembly, and in performing the necessary secretarial functions, and the Assembly procedure has been so well developed, that none

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of the offices of the Assembly makes any exceptional demands, in the way of ability and parliamentary training, on those who hold the offices. At any rate, the facts show that the method of distribution of honors and offices has been just as satisfactory as the method based on party divisions which is in general use in national legislatures, and has proved besides to be more suitable for an international body such as the Assembly.

4. The Committee Organization of the Assembly.

Probably the most important aspect of the organization of the Assembly is its committee organization; for it is in the committees that most of the real work is done, just as is the case in national legislatures. On the success of its committees depends the success of the whole Assembly.

First of all, there are two minor committees of the Assembly, which perform certain definite functions. These are the Committee on Credentials and the Agenda Committee. In 1920, the credentials of the delegates were examined by the Secretariat, and a report made by the Secretary-General to the Assembly. But the Assembly itself, in adopting its Rules of Procedure, decided to assume more complete control over this function. National legislative bodies themselves examine the credentials of their members. So Rule 5 provides that "each Representative shall, as soon as possible, and preferably before the opening of the Session, present his credentials to the Secretary-General. A Committee of eight members for the examination of the credentials shall be elected by the Assembly by secret ballot. The Committee shall report without delay."[50] So, at every session,

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50. See Rules of Procedure, Rule 5.

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one of the first acts of the Assembly is the naming of this Committee. In practice, the provision of Rule 5 prescribing election by secret ballot has been regularly violated. Because of the need for economizing of time, the election of this Committee has become a mere formality. The President reads to the Assembly a list of eight names of delegates, which has been prepared in advance by the Secretariat, and states, if there is no objection, he will declare these eight elected. Of course, there is never any objection, so without even taking a vote, the Committee on Credentials is declared elected. It immediately proceeds to examine the credentials, and then makes its report to the Assembly, usually completing its task before the first meeting is finished. During the remainder of the session, the Committee on Credentials has nothing further to do, unless it happens that new members are admitted to the Assembly. As might be expected, there has never yet been any question as to the validity of any of the credentials presented.

The Agenda Committee was the creation of the Second Assembly. At the tenth meeting, the President, probably on the initiative of the Secretariat, proposed such a new committee. As he explained, the Rules of Procedure (4) authorized the Assembly, "in exceptional circumstances" to place additional items on the agenda during the session, by means of motions proposed by the delegates. Thus, two further questions were raised: first, whether any motion proposed constituted a new item, and second, if it did, whether the Assembly ought to undertake its examination. Consideration of these two questions by the whole Assembly would prolong its debates considerably. So

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the President suggested that a Committee be set up "to give its opinion when necessary on the inclusion in the Agenda of draft resolutions submitted to the Assembly during its sessions. In the event of the resolution being accepted by this Committee, it would then be necessary to refer them to the appropriate Assembly committees already established."[2] The suggestion of the President was approved, and immediately a Committee of seven was named, also on his nomination.[51] ..The practice thus inaugurated has been continued at every succeeding session. The Agenda Committee of seven members, nominated and elected in the same way as the Committee on Credentials, has become a regular part of the committee organization of the Assembly.

In its Agenda Committee, the Assembly possesses a time-saving agency not yet available to national legislatures generally, one which they might do well to duplicate. The British House of Commons has something resembling it in the Private Bill Committees, which give special preliminary consideration to all private bills introduced in a session. In regard to public bills, however, there is no such time-saving agency. All such bills which pass their second reading go almost always to one of the six standing committees. In the French Chamber of Deputies, all government bills go immediately upon introduction to the appropriate regular commission, and ordinarily the same procedure is followed in regard to private member bills. In the American House of Representatives, every bill, however introduced, goes to one of the regular standing committees; thus the regular com-

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51. Records, Second Assembly, Plenary Meetings, p. 220.

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mittees must waste considerable time examining the many bills introduced at every Congress, most of which could well be examined and dismissed by a body such as the Assembly's Agenda Committee. The chief advantage of this latter body is its time-saving possibilities. Quite a number of draft resolutions are introduced at every session, and if the Assembly or one of its regular committees would have to give preliminary examination to all these proposals, much time would be lost, at the expense of the really valuable functions of the Assembly. So the creation of the Agenda Committee may well be regarded as a step in advance of national legislative organization.

Rule 14 of the Rules of Procedure as adopted by the First Assembly provides: "The Assembly shall establish such committees as it thinks fit for the consideration of the items on its agenda. Items of the same nature will be referred to the same committee."[52] At this same first session, the President proposed the division of the agenda among six committees, each to handle a related group of subjects. After some confused and rather wandering discussion, indicating that the delegates were not yet quite certain what arrangement would be best, the presidential proposal was adopted, and six committees set up, with the following titles: (1) On General Organization; (2) On Technical Organizations; (3) On the Establishment of the Permanent Court of International Justice; (4) On Financial Organization; (5) On the Admission of New Members; (6) On Armaments and Mandates.[53] Obviously, two at least of these committees were

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52. See Rules of Procedure, Rule 14

53. Records, First Assembly, Plenary Meetings, pp. 64-65.

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assigned functions which could be of only temporary importance. These were the third and the fifth. So it was not at all certain how many regular committees the Assembly would need in the future.

This question was definitely answered during the Second Assembly. At the third meeting, the President proposed the organization of the same number of committees as had been used in the previous year, but with a different division of functions. The set-up now adopted was: (1) Legal and Constitutional Questions; (2) The Work of the Technical Organizations; (3) The Reduction of Armaments; (4) Financial Questions and Internal Organization of the League; (5) Humanitarian Questions, and (6) Political Questions.[54] This division has continued regularly since 1921, with only two exceptions. In 1932 and 1933, the Assembly decided not to set up a Third Committee, in view of the fact that the Disarmament Conference was in session, and was giving adequate consideration to the question of armaments. The functions of each of these committees, which are generally clear from their titles, will be considered in more detail later. Here we are concerned with their organization.

The method by which these committees are formed is specified in the Rules of Procedure (14), where it is provided that each delegation may designate one member, and may nominate technical advisers for each Committee.[55] Here again, the Assembly employs a method different from that is use in most national legislative bodies. In practically all legislatures, committees

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54. Records, Second Assembly, Plenary Meetings, pp. 33-35.

55. See Rules of Procedure, Rule 14.

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are appointed finally by majority vote of the whole house, (usually on the recommendations of a committee on committees). The chief reason for the Assembly method seems to be the existence of the unanimity rule. If all delegations did not have the right of representation on each of the committees, it would no doubt be much more difficult to secure approval of the proposals of the committees by the plenary Assembly. Further, it is to be noted that the Assembly method differs from that in use at the Pan-American Conferences. Article 7 of the Rules of Procedure of the latter specifies that "the Permanent President shall submit to the Conference for approval the appointment of the members of the different committees."[56] This method is in use in the Assembly for the appointment of the Agenda Committee and the Committee on Credentials, but apparently the Assembly does not yet feel strong enough to deprive any of its members of the right of representation on each and every regular committee. At any rate, early in every session, usually before the second meeting, the delegations are given forms on which to enter the names of their representatives on each of the six committees. The forms, when filled out, are given to the Secretariat, which thereupon publishes the final official lists of the committee members.[57]

The first task of the committees, after this organization, is to elect their Chairmen and Vice Chairmen. In view of the plenitude of present and former cabinet officers in the delegations to the Assembly, the Committees have the opportunity to

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56. The 6th International Conference of American States Special Handbook for the Use of Delegates. Washington, 1927. p. 22.
57. See, for example, Official Journal, S.S. 54, p. 27.

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choose as presiding officers men of considerable executive capacity, and to do this without seriously violating the principle of rotation. The choices made do show a tendency to take advantage of this opportunity with reasonable regularity. The Chairman and the Vice Chairman, together with the Secretariat officials furnished by the Secretary-General, constitute the Bureau of the Committee. The chief functions of the Bureau are to arrange the order of business, and in general to provide smooth and efficient working conditions for the committee. The Secretariat officials, of course, have also the duties connected with translation, the keeping of minutes, the circulation of documents, the communication of information, and the like.

As to the time of the committee meetings, there is no regular arrangement. After the election of the officers, which takes place very early in the session, the committees mark time until the general debate on the work of the League has been completed. Thereafter, their work begins in earnest, and usually continues until very nearly the end of the session. During this time, they have no regular meeting time. The main principle according to which they arrange their meetings is to avoid conflict first with the plenary Assembly, and secondly with each other, so far as this is possible. An interesting commentary on the rapid increase since 1920 in the amount of work of the Assembly is the development in regard to frequency of committee meetings. For the first two or three sessions, the committees each met twice a week, two on each day. Then, with the increased work, each committee met three times a week, three on each day. Now, each meets every day--six committees a

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day, six days a week. Sometimes they meet early in the morning, before the plenary meeting, sometimes in the late afternoon, after the plenary meeting, and sometimes even in the evening, when this is found necessary to get the work finished in time.

It has already been indicated that neither the Salle de la Reformation nor the Batiment Electoral possess any facilities for the meetings of the committees. As a result, such meetings are almost invariably held in the Secretariat building, the old Hotel National, and adjoining buildings. This means that the delegates must spend considerable time in going and coming between the Assembly building and the offices of the Secretariat. The completion of the new Palace of the Nations will doubtless result in considerable improvement in this situation, and will provide more adequate facilities for the Committees to do their work.

In regard to the question of publicity of committee meetings, the general rule is that they are left open to the press and the general public. All the committees decided, at the First Assembly, that their meetings should be public unless they specifically decided otherwise in particular cases. However, there were some who thought that the rule should be reversed, and the meetings be private unless specifically decided otherwise; but the majority in every case favored as much publicity as was possible. There has been only one case of recurring privacy of meeting, in the Fourth Committee, when the subject of contributions in arrears has been under discussion. Whether this decision for as much publicity as possible in regard to committee meetings was wholly wise, is open to argument. In

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the first place, nothing of particular importance is gained by it. The results of the work of the committees is always made public in the reports to the plenary Assembly. Further, there can hardly be any serious intrigue or breach of public confidence in a closed committee meeting, when the representatives of over fifty States are, or can be, in attendance. In the second place, publicity for the committees can produce bad effects, It is human nature, when an audience is present, to "play up" to that audience. Hence there is a greater tendency for the delegates to make flowery orations directed at the audience, instead of doing away with the excess verbiage and getting down to business. And it must be admitted that some of the speeches made in the Assembly committees have been too lengthy, too general, and too flowery to be altogether proper in an efficient committee.

As far as the character of the representatives in the various committees is concerned, it seems safe to say that there has been a general observation of common sense principles. Delegates with expert special qualifications are usually placed on the particular committee where their knowledge and experience will be most useful. An outstanding example of this fact is the regular reappointment of M. Scialoja, a very well known Italian jurist, as Chairman of the First Committee, which deals with legal and constitutional questions. Another instance is the fact that nearly all the women who are in the Assembly delegations are appointed to the Fifth Committee, which has to do with matters of special interest to women, namely, social and humanitarian questions. In the Fourth Committee also, one frequently finds men holding high positions in the financial administration

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of their own countries. Again, the Third Committee, dealing with the reduction of armaments, is generally composed of "politicians", using the term in its better connotation. The results, naturally, of this logical distribution of representatives in the six committees have been highly beneficial.

Every one of the six Assembly committees regularly and frequently makes use of sub-committees. It often happens that certain items on a committee's agenda require special technical knowledge to be properly worked out. In such a case the committee, usually on the recommendation of the Chairman, nominates those of its members who possess the needed experience and training, as a sub-committee to examine the question and to make proposals for adoption by the whole committee. Two important examples are the Sub-Committee on Allocation of Expenses in the Fourth Committee in several different sessions of the Assembly, and the Sub-Committee on the Codification of International Law, in the First Committee of the 1930 Assembly.[58] However, a much more frequent use of sub-committees is made to iron out disagreements. General discussion in a committee frequently reveals differences of opinion which are not utterly irreconcilable. The procedure in such circumstances is to appoint a sub-committee on which the various shades of opinion are all represented, and to instrct the sub-committee to work out, if possible, a recommendation or draft resolution agreeable to all. The results of this procedure have usually been quite successful.

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58. Official Journal, S.S. 85, pp. 96 et seq.

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A unique feature of the Assembly's committee organization is the employment of joint sub-committees. Officially, at least, this procedure has no counterpart in national legislative organization. Even in the Assembly it has been entirely an extra-legal development. There is no mention of it in the Rules of Procedure. Apparently the first case of the use of such a joint sub-committee arose at the Second Assembly, in connection with the problem of the allocation of expenses. From the beginning, numerous members had complained about the inequity of the system set up in the Covenant. By 1921, it was generally agreed that the system would have to be revised. This being a financial question, it was referred to the Fourth Committee for consideration. But there was also a legal aspect; so the Fourht Committee, purely on its own initiative, decided upon a joint sub-committee. A letter from the Chairman of the Fourth Committee to the Chairman of the First Committee explained that the former body had decided to appoint a joint sub-committee to examine the procedure to be adopted for the institution of a new method of allocating the expenses of the League. The letter went on to suggest that the joint sub-committee be composed of three members from each of the committees concerned. In the First Committee, the suggestion was approved without discussion, three members were appointed, and the joint sub-committee proceeded to function.[59] Since that time, frequent use has been made of the joint sub-committee. This has been especially true as between the First or the Fourth Committee and one of the other

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59. Records, Second Assembly, First Committee Minutes, p. 31.

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four regular committees. Whenever there is a question with legal aspects presented to one of the other committees, a joint sub-committee is set up with the First Committee to secure the benefits of its legal advice. An important example of such collaboration between committees was in the working out of the Draft Protocol for the Pacific Settlement of International Disputes in the Assembly of 1924, the committees concerned being the First and the Third.[60] It is the Fourth Committee, however, which most frequently forms part of a joint sub-committee. As we shall see later, no committee may introduce in the Assembly any proposal involving expenditure unless the proposal, in its financial aspects, has received the approval of the Fourth Committee.[61] As a result, there are frequently proposals by the other committees to the Fourth Committee for the setting up of joint sub-committees to work out proposals agreeable to all. For example, during the session of 1926, the Fifth Committee had proposed a resolution giving supplementary credits to the Armenian Refugee Commission. The Fourth Committee refused to approve the credits. Thereupon, on the initiative of the Fifth Committee, a joint sub-committee was set up to examine the whole question, and the result was a compromise, in the form of a smaller credit than that originally requested by the Fifth Committee.[62]

This extra-legal practice of employing joint sub-committees has produced several important results. In the first

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60. Official Journal, S.S. 21, pp. 191 et seq.

61. See Rules of Procedure, Amendments.

62. Official Journal, S.S. 48, p. 61.

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place, it has given the First and Fourth Committees a superior position in relation to the other Assembly committees. The First Committee has tended to become a sort of legal advisory body to the others, and the Fourth Committee has achieved a truly predominant position through its role as watchdog of the League purse. In the second place, this practice has undoubtedly made for greater smoothness and efficiency in the work of the Assembly. By enlisting the training and experience of the members of different committees in the attack on international problems, which are usually many-sided, a more practical and satisfactory solution will be worked out. In the same way, the possibility of disagreement in the plenary Assembly is much reduced when agreement between the committees concerned has previously been attained. Here again, the Assembly is a step in advance of national legislatures.

In still another respect the Assembly is at least the equal of most national legislative bodies. This is in the possession of an efficient steering organization, the General Committee. This General Committee, as already indicated, consists of the President, the six Vice Presidents elected by the whole Assembly, and the Chairman of the six regular committees who are ex-officio Vice Presidents. Also, since 1926, it has become an accepted custom to admit the Chairman of the Agenda Committee into the General Committee,[63] making a total of fourteen. This is not too large a number for an efficient steering committee for such a large and potentially unwieldy body as the League Assembly. The chief functions of the General Committee are the general expe-

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63. Official Journal, S.S. 44, p. 31.

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dition and coordination of the Assembly's work. To perform these functions, it is given large discretionary powers in such matters as fixing the time for Assembly and committee meetings, arranging the order of business for the plenary sessions, studying ways and means for improving the material arrangements of the sessions, and so forth. Upon its efficiency depends to a large extent the smooth operation of the whole organization. That it has done its work well is attested by the unusual smoothness and lack of friction in the past sessions of the Assembly.

But an account of the Assembly's committee organization does not end here. Again like a national legislature, the Assembly has in addition to its regular committees, special ones which are comparable to the "standing committees" of a House of Commons or a Chamber of Deputies. First of all, the Assembly has developed a committee of the whole. In the Special Session of 1932, a General Commission was created for the first time. Like the regular committees, it was to consist of representatives of all Members of the Assembly. It must be remembered that there were no regular committees set up at this special session. So the whole question on the agenda (the Sino-Japanese dispute) was referred for consideration to the General Commission, with instructions to report back to the plenary body later. However, since this has been the only case in which the Assembly made use of a committee of the whole, the possibilities which might result from the development of such a committee cannot be foreseen. During the Special Session of 1932-1933 the General Commission functioned in exactly the same manner as one of the regular committees. So perhaps there will be no development, the committee of the whole being reserved for special situations, such as that of 1932.

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Secondly, there were two special committees appointed in the Special Session of 1926, called to consider the admission of Germany into the League. Again, both committees included representatives of all the Members of the Assembly. The first was entrusted with the examination of Germany's application for admission to the League, and the second with two financial items, the supplementary budget needed to meet the expenses of the Special Session and the approval of credits for the erection of new League buildings.[64] These committees too functioned in the same way as the regular committees. They merely illustrated the power of the Assembly to create special committees for special occasions.

Thirdly, in the Special Session of 1932, there was created the well known Special Committee of Nineteen. This was probably the most important special committee thus far appointed by the Assembly, so it is noteworthy that it did not include representatives of all Members of the Assembly. The Committee of Nineteen was composed of the following: the President of the Special Assembly, the members of the Council other than the parties to the dispute, and six other members elected by secret ballot by the whole Assembly.[65] It is further noteworthy that with the exception of President Hymans, the appointments to the Committee of Nineteen were of States, not of particular individuals, the obvious reason being that the Assembly wished above all to have the attitudes of particular States represented. Furthermore the very wide jurisdiction left by the Assembly to this Committee

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64. Official Journal, S.S. 42, p. 18.

65. Ibid., S.S. 101, pp. 88-89.

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gave it at least the semblance of an executive committee rather than a mere advisory committee. How it functioned, and what it accomplished, we shall see later.

Finally, at the last meeting it has held to date (on February 24th, 1933) the Special Assembly adopted a resolution appointing a Standing Advisory Committee "to follow the situation, and assist the Assembly in performing its duties under Article 3, Paragraph 3 of the Covenant, and to aid the Members of the League in concerting their action." It was composed of the members of the Committee of Nineteen with two additions, Canada and the Netherlands, and besides, the Governments of the United States and the Soviet Union were to be invited to cooperate in its work.[66] It was instructed to report and to make proposals to the Assembly whenever it thought fit. The most important feature of this Committee was its permanence; and this leads us to another question.

A development the importance of which can hardly be overexaggerated, in connection with Assembly committee organization, has been that in regard to the permanence of committees. The question was raised at the very first session by M. Motta, the delegate of Switzerland, who proposed that if committees found themselves unable to finish their work before the end of the plenary session, they should be permitted to continue until they had finished. The proposal was handed over to the First Committee for examination. With practically no discussion, indicating the temper of most members of the committee, the proposal

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66. The United States accepted the invitation, but the Soviet Union declined. See Official Journal, S.S. 112, pp. 97-99.

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was quashed, and the following inserted in the report of the First Committee to the Assembly: "The idea has been suggested of allowing Committees which had failed to complete their labors in the course of the session of the Assembly to retain their mandates until their discussions were completed. The Committee is unable to accept this proposal. As each Committee consists of one representative from each State, it would be impossible to keep the members of a Committee in Geneva after the Assembly session is over."[67] The weakness of this argument is obvious. In the first place, there was no reason to assume that all committees ever to be appointed by the Assembly would have to consist of one representative from every Member State. Actual developments have effectively demonstrated the non-validity of this assumption. In the second place, even granting the assumption, there was no overpowering reason why it should always and everywhere be impossible for any of the delegates to remain in Geneva after the Assembly of a certain year had ended its plenary sessions. In other words, there was no inherent constitutional obstacle in the way of establishing real continuity of the Assembly. Yet the argument was accepted without disagreement in the Assembly of 1920, and nothing more was done about it for seven years.

In the session of 1927, a beginning was made towards the reversal of the decision of 1920. For several years, discussions and plans for a new League building had been in the making. In 1927, the whole question, in both its architectural

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67. Records, First Assembly, Plenary Meetings, pp. 282-283.

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and its financial aspects, was turned over to the Assembly. Early in the session, on the proposal of the General Committee, a Special Committee of Five was appointed, to formulate suggestions for action by the Assembly. One of the items included in its terms of reference was this: "If no final decision is taken before the close of this Assembly, must the matter be held over for a whole year; or if not, who will be empowered to take a decision in the interval?"[68] About two weeks later, towards the close of the session, the Special Committee of Five reported that they had been unable to make a final decision thus far. So in agreement with the 4th Committee, which had collaborated in examining the financial aspects of the question, they proposed that the life of the Special Committee be extended, until it could bring the matter to a final conclusion. But, very important, the decision of this Committee was to be submitted to the Council for approval and ratification and then finally to be communicated to the Assembly at its next session. With no debate, the Assembly adopted the proposed resolution.[69] Thus, for the first time, the Assembly appointed a permanent committee, one which was to outlast the session which had created it. But, though appointed by the Assembly, the committee was made responsible to the Council in its decisions. It could not yet be said to be solely and completely a standing committee of the Assembly.

In the following year, however, the reversal of the decision of 1920 was made complete. Significantly, this was done on

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68. Official Journal, S.S. 54, p. 106.

69. Ibid., S.S. 54, pp. 182-185.

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the initiative of the Fourth Committee, which had already assumed a position of considerable power. Previously, in 1921, the Assembly had decided in the interests of sound financial administration, and on the recommendation of the Noblemaire Committee, to create a Commission of Control, to supervise and examine the annual budget as drawn up by the other League officials. The circumstances being what they were, it was naturally provided that this commission, soon to be known in English as the Supervisory Commission, was to be appointed by the Council.[70] And so it was, until 1928. Of course, the Supervisory Commission, in the last analysis, was from its creation responsible to the Assembly, for in the latter body rested final financial control of the League. But this only served to make more apparent the anomalous character of the arrangement. One of the most important agencies in the administration of a function over which final power rested in the Assembly, was appointed by the Council. This anomaly became more and more apparent as Assembly predominance grew in various directions, and finally, in the Fourth Committee of the 1928 Assembly, the decisive step was taken. On the proposal of Mr. Carl Hambro, of Norway, one of the outstanding proponents of Assembly pre-eminence within the League, paragraph 2 of Article 1 of the Financial Regulations was amended in just one word. "Assembly" was substituted for "Council", thus making the article read as follows: "The Supervisory Commission shall be composed of five members, of whom one at least shall be a financial expert. The members shall be appointed by the Assembly,

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70. Official Journal, S.S. 6, p. 29.

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which in selecting them, shall include among them persons belonging to countries members of the League which are not represented on the Council. The Assembly shall also appoint two substitutes to replace, if need be, members unable to attend a meeting."[71] The vote in the Fourth Committee was 13 to 6, the opposition coming mainly from the representatives of the permanent members of the Council. However, they yielded gracefully to the opinion of the majority, and when the proposal was brought up for approval in the plenary Assembly, it was adopted with no disagreement at all.[72]

Without concerning ourselves here with the significance of this decision in connection with financial administration, its constitutional significance can hardly be overemphasized. It meant the setting up of a precedent for the creation of permanent committees of the Assembly, responsible to the Assembly alone. And permanent committees can mean very much in regard to the ppsition of the Assembly within the League. In the first place, it could result in a far more complete subordination of the Secretariat to the Assembly than has been the case in the past. Its lack of permanence has been the chief reason for the Assembly's dependence upon the Secretariat in so many different respects. Now, through the ability to create its own standing committees, the Assembly can become practically independent of the Secretariat, and in the process reduce to a minimum the executive functions which that agency now possesses. In the same

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71. Official Journal, S.S. 68, pp. 89-90.

72. Ibid., S.S. 64, pp. 191-192.

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way, the Assembly can come to dominate much more completely than at present the advisory committees and technical organizations of the League; for, if they do not operate to the satisfaction of the Assembly, that body can well supplement them with its own permanent committees in the same fields of activity. Finally, in relation to the Council itself, it is conceivable that it could be reduced to something of the position of a mere standing committee of the sovereign Assembly, in regard to all of its functions except those explicitly given to it by the Covenant. The procedure could be the same as in the case of the Secretariat. In a word, the power to create permanent committees gives to the Assembly the power to dominate more or less completely the entire organization of the League.

The precedent set up in 1928 has already been followed on rather frequent occasions. At the session of 1929, the Assembly appointed two permanent committees, one of five members, to work out in the interval between sessions plans for improvements in the material arrangements of the Assembly,[73] and the other of nine members, to form a Special Commission of Enquiry on the Organization of the Secretariat, the Labor Office, and the Registry of the Permanent Court.[74] The creation of this second permanent committee is a good illustration of how far the Assembly had travelled since 1921. In that year, it had requested the Council to name a committee to examine the organization and working of the Secretariat (the Noblemaire Committee). In 1929, it created

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73. Official Journal, S.S. 75, pp. 140-142.

74. Ibid., p. 143.

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a committee for the same purpose itself, with instructions to report to itself at the next session. In 1930 the Assembly set up another permanent committee, to "consider certain outstanding questions with regard to the higher posts of the Secretariat", and instructed it to have a report prepared in time for submission to the next Assembly.[75] At the 1931 Assembly the term of office of the Special Committee of Five for the Organization of the Sessions of the Assembly was extended,[76] indicating a tendency to make this committee a regular permanent agency of the Assembly. Then, of course, there was the Standing Advisory Committee above mentioned, which was created by the Special Assembly in 1933. In a word, the power of the Assembly to appoint permanent committees has been firmly established.

During the session of 1933, the Assembly struck out in still another direction. It was decided, on the suggestion of the Secretary-General (Avenol) to introduce as an experiment at the session of 1934 the practice of having one of the regular committees, the Fourth, meet and begin its work before the opening of the regular session. The chief reason for this experiment, as the Secretary-General explained, was that the Fourth Committee was always the last one to complete its work; and in 1932, it had held up the closing of the session for a whole week, thus increasing the expenses of the session very considerably. The legal difficulties involved in the idea of

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75. Official Journal, S.S. 84, p. 223.

76. Ibid., S.S. 93, p. 125.

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a committee coming into existence before the body which was to create it, were glossed over in the First Committee, and the consent of all the delegates was won by providing specifically that the step was experimental. The resolution, as finally adopted, was as follows: "The President of the Council, after consulting the Chairman of the Supervisory Commission, may convene the Finance Committee of the Assembly for a date preceding by not more than one week the first meeting of the ordinary session of the Assembly. The Committee shall be composed of representatives accredited for the purpose by the Members of the League. It shall appoint its Chairman, who shall thereby become a member of the General Committee of the Assembly under Article 7 of the Rules of Procedure. The establishment of the Committee shall be reported to the Assembly at its first plenary meeting."[77] Whether this experiment will become a regular feature of the Assembly remains to be seen. If it does, it will obviously add still further to the permanence and continuity of that body, inasmuch as it will enable one session to dictate what is to be done for the next session before that session convenes. Of course, to some extent, this ability is implied in the right of one Assembly to put items on the agenda of the next, and thus from the first there has been some continuity between sessions. But this experiment to be tried out in 1934 adds very much to the reality of that continuity, and at the same time strengthens the right of the Assembly to set up committees whose duration is not limited to the exact time of the plenary session.

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77. Journal, 14th Assembly, 1933, 9th Plenary Meeting, pp. 1-2.

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From the above account of Assembly organization, it would seem that the League's most representative organ is in many ways comparable to a national legislative body. But in one important respect, the organization of the Assembly differs markedly from that of a national legislature. In the latter, the fundamental basis of most features of its organization is the party system. Officers are elected, cabinets formed, committees appointed, on a basis of party division, whether there be two or many. In the organization of the Assembly, there is no such basis. In the international field, there are as yet no political parties. The unity of policy, the realization of community of interests, which hold men together in political parties, are generally absent as between the national States that form the membership of the Assembly. Still, there are, to a certain extent, groupings within the Assembly which may properly be referred to as blocs. But in no sense can they be called parties, even in embryo. Party divisions within a country are made on national lines; that is, the division is based on a conflict of policies to be followed for the country as a whole. The groupings in the Assembly are in no wise based on disagreement as to policies for the international community as a whole. What divisions there are, are based on geography, or on political alignments which are of no concern to the whole international community; further, they do not conflict with each other, as national parties do, but rather supplement each other, in that each group is concerned primarily with the promotion of its own special interests.

The first division one would naturally expect to find in the Assembly would be that between Great Powers and Small

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Powers. But, much as in the case of the American Congress, such a division has failed to develop to any considerable degree. Belgium, Poland, Yugoslavia and other lesser States are frequently found on the side of the Great Powers, while certain of the Great Powers have sometimes aligned themselves with certain of the smaller Powers. Other bases of division than that of Great Powers and Small Powers must be sought.

One of the most compact and highly developed groups within the Assembly is that of the Latin American States, which total nearly one third of the whole membership of that body. That this group holds informal caucuses during Assembly sessions is evidenced from a dispute in the First Committee of the 1926 Session, between the delegates of Uruguay and Cuba. The former complained of the practice whereby the Latin American group decides in advance, and without fear of reversal by the plenary Assembly, which States from Latin America are to be elected to the non-permanent Council seats. He explained that his Government (the only one, it should be noted) was of the opinion that the States of Latin America should not hold special assemblies and elections among themselves, the conclusions of which would be binding on the plenary Assembly. The Cuban delegate "reminded the delegate from Uruguay that, at present, meetings actually took place between the Latin American representatives, and that, behind the scenes, these representatives were frequently asked which were the three candidates for seats on the Council chosen by the Latin Americans." To this the Uruguayan member replied that his delegation attended these meetings because it regarded them as means for an exchange of views, but that they did not

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approve the taking of formal votes at these meetings, even by secret ballot; that decisions such as these should be taken only in the Assembly as a whole.[78]

This grouping is obviously based on geography, as is a much less crystallized cooperation between the States of Asia-China, Persia, Siam and India. There are others based, not on geography, but on political alignments. Most compact of these is that of the British Empire, the Irish Free State being the independent "black sheep" of the family. With this exception, the States owning George V as their sovereign are almost always found on the same side of a question. Again, there are France and the Little Entente, Germany, Hungary and Austria (and sometimes Italy), in opposing groups, especially on the question of reduction of armaments. Then there are the Scandinavian group, and the Balkan group, each of whose members usually agree, although very informally, on policies within the League.

At any rate, it is safe to say that, although the bloc tendency, towards groupings on geographical or political lines, is growing, a real party system is still entirely absent in the Assembly. The effects of this situation on the organization of the Assembly, in regard to the election of officers, the formation of committees and the like, has already been seen. What results it has had in regard to Assembly procedure, we shall see in the next chapter.

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78. Official Journal, S.S. 45, pp. 11-13.

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CHAPTER V - The Assembly at Work - Procedure

1. Preliminary and Opening Procedure

The date for the opening of Assembly sessions is fixed by the Rules of Procedure. As has already been indicated, the date was originally settled as the first Monday in September, but in 1930 the rule was changed, fixing the date for the second Monday in September, unless the second Monday fell later than the tenth of the month. In that case, the session was to open on the first Monday.[1] But the changed rule operated only in 1931. In 1932, as we have seen, the Special Assembly called to consider the Sino-Japanese dispute voted to postpone the opening of the ordinary session of that year to September 26th. This was done in accordance with Rule 1 (2), which provides that "sessions may also be held at such times as the Assembly at a previous meeting decides, and at such times as the Council by majority vote decides."[2] In 1933 also, the ordinary session was deferred, for reasons previously indicated.

Obviously, the Assembly decision to hold regular annual meetings represents a decided improvement over the pre-1914 conference system. A still further improvement over that system is embodied in the provisions for special sessions. The third paragraph of Rule 1 reads: "If a Member of the League considers a session to be desirable, it may request the Secretary-General to summon a special session of the Assembly. The Secretary-General

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1. See Rules of Procedure, Rule 1 and amendments.

2. Ibid.

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shall thereupon inform the other Members of the League of the request, and enquire whether they concur in it. If, within a period of one month from the date of the communication of the Secretary-General, a majority of the Members concur in the request, a Special Session of the Assembly shall be summoned."[3] According to this procedure, an emergency session might be convened in little more than a month, and perhaps in even less time, depending upon the speed of the Member States in responding to the communication of the Secretary-General. But an even more rapid procedure is envisaged in the provision of the second paragraph of Rule 1. It provides that an Assembly session may be held "at such times as the Council by majority vote decides." That this provision did make for more rapid convening of a special session was illustrated both in 1926 and in 1932. In the former year, on February 8th, the League received Germany's application for admission into the League. About a week later, the Council decided to summon a special session of the Assembly to consider the application. It set the date for three weeks later, namely, March 8th; the Secretary-General sent the telegram of convocation to the Members, and the session opened as planned, on March 8th. The significance of this speedy procedure was commented upon by Viscount Ishii, acting President, at the opening of the session. "In the first Place", he said, "I would draw your attention to the fact that, since the application of the German Government was received by the Secretary-General, just one month has elapsed. The meeting at such short notice of the official representatives

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3. See Rules of Procedure, Rule 1.

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of most of the States of the world is surely without precedent, and is evidence of the efficiency of the League as a machine for the transaction of business affecting many nations."[4] In 1932, even less time was consumed in getting the Assembly together. On February 12th, China asked that its dispute with Japan be referred under Article 15 of the Covenant to the Assembly. On February 19th, the Council decided so to refer the dispute, and fixed the date for the convening of the Special Session at March 3rd, just thirteen days later. Of course, it must be admitted that, in this case, the unusual speed of convocation was made possible by the special circumstance that all Members of the League already had official representatives in Geneva for the Disarmament Conference. Even so, it remains true that the Assembly can probably be convened, in an emergency situation, in less than a month; and equally significant, the special session can originate either with the Council or with a Member of the League. Further, in view of the provision that the concurrence of a majority of the Members is sufficient to convene a special session, it is conceivable that the smaller Powers could force such a session against the united will of the Great Powers.

The method to be followed in convening a session of the Assembly is laid down in Rule 3 of the Rules of Procedure: "1. Sessions of the Assembly shall be summoned by the President of the Council, acting through the Secretary-General.
2. The summons shall be addressed to the Members of the League not less than four months before the date fixed for the opening of the session. In exceptional circumstances, however, the

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4. Official Journal, S.S. 42, p. 15.

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Council, by majority vote, may sanction a shorter period.

3. Nothing contained in paragraph two of this Rule shall affect the provisions concerning special cases contained in the Covenant."[5]

This method resembles that of a national legislature much more than it does that of either the Hague or the Pan-American Conference systems. In these, each conference had to prescribe the next, and the invitations (not the summons) were issued by an individual State. The method prescribed in the United States serves as an illustration for comparison with that of the Assembly. The Constitution prescribes that the President must summon Congress at least once in every year, and such meeting shall be on the first Monday in December unless Congress appoints by law a different day. In addition, the President is authorized by the Constitution "on extraordinary occasions to convene both Houses, or either of them."[6] In both cases, it is further to be noted, the central body cannot compel the attendance of any of its duly constituted members. But this is not of any great importance, for the absence of any member is apt to work more to his disadvantage than to that of the body as a whole.

The procedure prescribed for the drawing up and working out of the agenda provides adequate protection for national sensibilities, but not 100% protection. This procedure is contained in Rule 4. The agenda is to be drawn up by the Secretary-General, with the approval of the President of the Council, and when completed, is to be circulated as nearly as possible four months

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5. See Rules of Procedure, Rule 3.

6. Manual and Digest of the Practice of the House of Representatines. U.S. Printing Office, Wash. D.C., 1921, pp. 247-248.

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before the date fixed for the opening of the session. But the hands of the Secretary-General are not wholly free. It is specified that the agenda of an ordinary session must include the following exhaustive list of items: (a) Report upon the work of the Council since the last session; (b) Report by the Secretary-General upon the work of the Secretariat, and upon the measures taken to execute the decisions of the Assembly; (c) All items whose inclusion has been ordered by the Assembly at a previous session; (d) All items proposed by the Council; (e) All items proposed by a Member of the League; and (f) The Budget for the next fiscal period, and the report on the accounts of the last fiscal period. In addition, paragraph 3 of the Rule prescribes that any Member of the League may, at least one month before the date fixed for the opening of the session, request the inclusion of additional items on the agenda. Such items, however, are placed on a supplementary list, which must be circulated to the other Members of the League at least three weeks before the date fixed for the opening of the session. The Assembly itself decides whether the items on the supplementary list are to be included in the agenda of the session; apparently by majority vote, for although this is not specified, yet Rule 28 empowers the Assembly to amend the Rules by majority vote, and it naturally seems to follow that a majority should suffice for any vote taken under the Rules. In view of this fact, paragraph 4 becomes very important. It provides that the Assembly may, in exceptional circumstances place additional items on the agenda, but that all consideration of such items must, unless otherwise ordered by a two-thirds majority of the Assembly, be

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postponed until four days after they have been placed on the agenda, and until a committee has reported upon them.[7] It is in this provision that the national sensibilities of all Member States lose their 100% protection, for it is possible, though not probable, that through it an item may be placed upon the agenda for airing and discussion against the will of one or several States. This is in direct contrast to the rule observed in the pre-war conferences, that no new subject could be added to the agenda without the unanimous consent of all participating States. Of course, the Assembly can be expected to proceed with great caution in the matter of adding items to the agenda against the desires of any of the Member States. The creation of the Agenda Committee in 1921, to give preliminary consideration to any proposed new items, before they can be referred to one of the regular committees, furnishes an additional brake on the possible haste of the Assembly. It remains true, nevertheless, that certain items inserted by the Assembly in this way have been contrary to the wishes of certain States, even though they did not carry their objections to the point of a negative vote. Especially has this been the case with the regular insertion of the subject of minorities since 1926, always on the motion of the German delegates. Certain other European States interested in minorities have made very clear their distaste for the inclusion of this item on the agenda of the Assembly. But their distaste is not always based on reasons which they would like to have discussed, so they do not carry it ôt the extreme of a

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7. See Rules of Procedure, Rule 4.

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dissenting vote, which might require explanation. At any rate, the Assembly is potentially as free as any national legislature in regard to what it may discuss; but of course, what it may do is an entirely different matter.

Two additions have been made to Rule 4 since 1920, the first providing that no proposal for modification of the allocation of expenses for the time being in force may be inserted in the agenda unless it has been communicated to the Members of the League at least 4 months before the date fixed for the opening of the session.[8] This addition was made to prevent a few dissatisfied States from stirring up trouble at every session over their share of League expenses. The second, made in 1932, specified that no proposal for the placing of new items on the agenda of the Assembly could be signed by more than 15 Members of the League.[9] This amendment was the outcome of the resentment of certain delegations at the obvious attempt of certain others to exert moral pressure on them in 1930, when France secured the signature of forty-five delegations to its draft resolution in regard to European Union.[10]

In both Special Sessions of the Assembly thus far convened it was the Council which was responsible for the calling of the sessions. As a result, it was also the Council that drew up their agendas. Of course, in both these cases, there was no disagreement; everyone knew for what purpose the special sessions

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8. See Rules of Procedure, Rule 4 (5).

9. Official Journal, S.S. 104, p. 69.

10. Ibid., S.S. 84, p. 126.

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were being called, and their agenda accurately reflected this purpose. To be brief, it is clear that the method employed in the Assembly in the drawing up and working out of its agenda is considerably advanced over that in vogue in international conference system of the pre-war period.

In conformity with the practice both of national legislatures and international conferences, the opening meetings of the Assembly are devoted to the preliminary but not unimportant details of organization. At the outset the chair is taken by the President of the Council, in accordance with #7 of the Rules of Procedure, which empowers him to act as President of the Assembly until the permanent President of the session has been elected. This contrasts with the practice of pre-war conference systems, in which the temporary President is named by the Head of the State on whose territory the conference is to be held, and is usually the Foreign Minister of that State. In a minor way, this indicates the more completely international character of the League system, in that even the temporary President of the Assembly holds his office on the basis of his position as an international rather than as a national official. At any rate, the President of the Council declares the session to be opened, and the first step thereafter is the election of the eight members of the Committee on Credentials. As already seen, this has become a mere formality, the President proposing a list of eight names drawn up by the Secretariat in advance. There is never any objection made to this list, so the Committee is declared elected, whereupon it retires immediately, to examine the credentials which the delegates have previously deposited with the

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Secretariat. While this Committee is out doing its work, the President pro-tem delivers his speech of welcome, which takes on the character of a brief review of League developments during the previous year. By the time he has finished, the Committee on Credentials has completed its labobs, and presents its report, which invariably finds all credentials in order. Sometimes, however, a few delegates are rather slow in presenting their credentials; and in such a case the Committee must meet again, after the tardy delegates have presented their credentials. At any rate, no objections are ever made to the report of the Committee, so the President without further ado declares it to be adopted by the Assembly.

Next in order, the Assembly proceeds to the election of its permanent President. The procedure, as we have seen earlier, is by secret ballot, with no open nominations being made beforehand. The part played by the Secretariat in making agreement possible on the first ballot has also been previously indicated. Suffice it to say that only once, in 1921, was a second ballot necessary, although on several occasions the election on the first ballot has been dangerously close. Once elected, the permanent President in his turn delivers an address, thanking the Assembly for the distinction it has conferred upon him individually and upon the State which he represents, and usually giving also a general survey of the work before the Assembly at its present session.

The next step, ordinarily, is the constitution of the six regular committees of the Assembly. Before the opening of the session, blanks have been placed at the desks of each dele-

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gation, on which they are asked to write the names of those of their members who are to represent their State on each of the six committees. These blanks, filled out, are deposited with the Secretariat, and between the first and second plenary meetings (which are usually on the same day - morning and afternoon) these committees meet, ten minutes apart, to elect their Chairmen. Then, at the opening of the second meeting, the names of the committee Chairmen are announced to the Assembly, whereupon that body proceeds to the election of the six Vice Presidents, who with the committee Chairmen are to constitute the General Committee of the Assembly. This practice of delaying the election of the six Vice Presidents until after the election of the committee Chairmen was decided in 1921, in order that the "honors might be distributed as widely as possible."[11] The Rules of Procedure, which originally specified that the "President and Vice Presidents shall be elected at the beginning of each session", were modified. The words "Vice Presidents" were taken out of this clause, and a new paragraph added to the rule (#7) prescribing that "the election of the Vice Presidents shall take place at one of the early meetings of the Session."[12] The whole purpose of this precaution is to make sure that, if any of the Great Powers are elected to the chairmanship of committees, they will not be elected Vice Presidents by the Assembly. To put it another way, the small Powers want to obtain as many seats as possible in the General Committee, along with the Great Powers.

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11. Records, Second Assembly, Plenary Meetings, p. 32.

12. Ibid., p. 227.

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who are sure of seats, either as committee chairmen or as Vice Presidents elected by the whole Assembly.

Finally, the work of organization is completed by the appointment of the Agenda Committee, of five members, to examine all additions to the agenda proposed during the course of the session, by the examination and adoption of the agenda, and its distribution among the six regular committees. The Agenda Committee is named in the same way as the Committee on Credentials, that is, the President proposes a list of names, to which there is no objection, so he declares the committee elected. The examination and adoption of the agenda is a formality, gone through to make the agenda official. The distribution of the items among the committees also rarely produces any difficulty. The President's proposals for distribution, being based on logic and common sense, are regularly adopted by the Assembly without debate.

Meanwhile, the General Committee, composed as we have seen, has been functioning in its capacity as a steering organization, arranging the time of day, and the number per day of the plenary meetings, taking care of the material arrangements of the Assembly Hall, providing rooms in the Secretariat for the various committees, and so on. So, by the time that the preliminary work of organization and election of officers has been completed, which is usually the first day of the session, the Assembly is ready to turn to the business before it.

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2. The Debate on the Work of the League

Ever since the first session, the Assembly, after it has finished the preliminary details of organization, has devoted its attention to the debate on the Report on the Work of the League since the last Assembly. This has become one of the unwritten rules of Assembly procedure. There is nothing in the Covenant to hint at such an annual feature of the Assembly sessions: and in the Rules of Procedure adopted by the First Assembly there is only the requirement that the agenda of a regular session must include a report on the work of the Council and of the Secretariat since the last session, and upon the measures taken to execute the decisions of the Assembly.[13] However, the First Assembly decided to discuss this general report in plenary session, without referring it to a committee, and the practice thus inaugurated has been continued ever since. At the Second Assembly, the question was raised as to which committee should be given the general report for examination, but M. Hymans of Belgium proposed that the practice of the previous year be continued, and the report referred to no committee, because "then the Assembly has an opportunity for general political discussion, and also it will then have something to do rightaway; otherwise it might have to wait several days for a committee to prepare something. Furthermore, as the Assembly goes along, it can refer very important special questions which arise during the discussion to the appropriate committee."[14] Hymans was

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13. See Rules of Procedure, Rule 4.

14. Records, Second Assembly, Plenary Meetings, pp. 36-37.

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supported by several other delegates, and his proposal was carried after a brief discussion. Since that time, the practice has been accepted without question. Its apparent inconsistency with the Rules of Procedure, wherein it is specified that the Assembly shall not decide items on the agenda in full meeting until a report of a committee upon them has been presented and circulated, unless the Assembly itself, by a two-thirds vote determines otherwise,[15] has never been raised. There are two probable reasons for this: in the first place it can safely be assumed that the two-thirds of the Assembly members required are in favor of continuing the practice, and in the second place it can be argued that the rule is not violated because the Assembly comes to no decision in regard to the report. When all those desiring to speak have done so, the discussion merely comes to an end; there is no vote, and no resolutions in regard to the report are made. So it can be concluded that the debate on the annual report has become, and will continue to be, a regular feature of the sessions of the Assembly.

The report itself is prepared by the Secretariat, and consists of two documents, a first report, which is drawn up before the end of May, when the budget estimates for the forthcoming year are ready, and a supplementary report, covering the period from May to September. Both documents are circulated to the Governments of the Member States, the first as soon as it is prepared, and the second shortly before the opening of the Assembly session. As a result, the Governments are given an opportu-

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15. See Rules of Procedure, Rule 14.

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nity to review in a general way the work of the League during the previous year, and shape the policies which their delegates are to pursue in the Assembly accordingly. The two reports taken together really constitute an excellent annual account of the League's development. Each is divided into three chapters, respectively dealing with the three items specified in the Rules of Procedure, that is, the work of the Council, the measures taken to execute the decisions of the Assembly, and the work of the Secretariat. The report is usually quite long, and goes into considerable detail. In fact, the criticism has been voiced in the Assembly that it goes into too much detail, and that it should be made more general, and hence more appealing to the public at large.[16] Undoubtedly the tendency of the Secretariat to yield to such criticisms as these, while it may have resulted in a more general reading of the report, has decreased its effectiveness as the basis for the general debate in the Assembly.

In fact, the debate does not have a great deal to do with the report. It has become rather a forum from which the delegations can make rather lengthy speeches about any subject of international scope which they choose. The most general tendency visible in the general debate is the steadily increasing use made of it by the delegates to provide the world at large with a survey of the progress made in their particular countries in the promotion of general League objectices, and the future possibilities in the same direction. No doubt, this tendency is related to the increasing number of heads of governments and

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16. Records, Second Assembly, Plenary Meetings, p. 61.

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foreign ministers in attendance at the Assembly. The forum of the Assembly gives them an unparalleled opportunity to justify their policies before the world at large. At the same time the fact that it is government heads and foreign ministers making the speeches in the general debate adds to the significance of the debate, and makes it an even more valuable mechanism for international understanding than would otherwise be the case.

Of course, the general debate, as might be expected, provides an excellent training ground for aspiring orators. The following extract from one of the speeches is an indication of what the delegates must listen to on occasion: "We are met together here under the patronage of the Muses, nine in number, as this is the ninth ordinary session of the Assembly of the League. May the most pensive of their number, the Muse of History, stand by my side while I unroll before you the record of our past endeavors. It is pleasant, when we are travelling far, to rest awhile on our way, and read the tale of the milestones, to cast an appraising glance over the wide horizon. This is the fateful moment for statesmen who hold in their hands the destinies of nations."[17]

It more frequently happens, however, that the general debate is used to criticize. The object of criticism may be either a particular organ of the League, a particular policy of the League, or a particular country and its policies. For example, in 1927, there appeared an article in the Journal de Genève which criticized the general debate as tending to become more and

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17. Official Journal, S.S. 64, p. 136.

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more an exchange of complimentary banalities. The delegate from Norway, taking up this criticism, admitted its truth, and blamed the trouble directly on the Council. "We put questions that are not answered. We discuss the work of the Council, but the Council keeps silent. We cry into a grey void..... With great respect we request them to answer our questions, to enlighten our obscurity." At greater length he criticized the cabal tendency within the Council, on the part of the Great Powers, whom he accused of meeting separately, and deciding Council business among themselves. He ended by characterizing this practice as "neither desirable, nor safe, nor dignified."[18] Again, in 1930, the first delegate of Hungary was very free in his criticism of the League in regard to disarmament: "Of all the questions concerning which insufficient progress, to put it mildly, has been made, the problem of armaments is incontestably the one most in the public mind."[19] A very interesting example of how the general debate is used to criticize a particular country was furnished by the delegate from Haiti in the 1930 Assembly. The interesting feature is the fact that he criticized the United States, a non-Member of the League. After characterizing the idea for a United States of Europe as an attempt to "free Europe from the economic and financial imperialism of the United States of America", he turned to the Monroe Doctrine, which he referred to as "a blank check, which the State Department of the United States fills in as it pleases..... Latin American borrowers see behind every

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19. Official Journal, S.S. 54, p. 58.

19. Ibid., S.S. 84, pp. 85-88.

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Yankee capitalist the shadow of serried ranks of American marines or the looming silhouettes of American super-dreadnoughts. So long as the military occupation of the Haitian Republic lasts, an occupation unjustifiable in law, and based on a treaty imposed by force, so long will fear and mistrust hold sway among American nations."[20] This quotation indicates a remarkable degree of freedom of speech in the Assembly, much greater, at any rate, than was to be found in the conference systems of the pre-war era.

There is no limitation on the number of speakers who may participate in the general debate. The Rules of Procedure merely provide that no representative may address the Assembly without having previously obtained the permission of the President, and that speakers shall be called upon in the order in which they have signified their desire to speak.[21] Usually, not more than twenty-five or thirty of the leading delegates take part in the general debate, using it, as we have seen, to make their speeches on national accomplishments and national foreign policies. Not infrequently this is the only part taken in the work of the Assembly by certain of the outstanding (and the busiest) statesmen who are listed as official delegates to the Assembly. Ramsay Macdonald, for example, found time on several occasions merely to address the Assembly in the general debate, and then hurriedly return to his labors as Prime Minister of Great Britain.

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20. Official Journal, S.S. 84, pp. 42-46.

21. See Rules of Procedure, Rule 15.

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As for the time allotted to each speaker in the debate, there is no specified limit. However, the Rules of Procedure empower the Assembly to make limits if necessary. It has happened, though rarely, that the President has asked the speakers to be as brief as possible. A more satisfactory solution has usually been adopted, when it appears that a large number of speakers wish to take part in the debate, or that their speeches are of considerable length. Either the meetings are lengthened, or evening meetings are held, and thus the delegates are left free to say all that they wish, and at as great length as they wish. But in no case is the general debate allowed to run over about one week. At the 11th Assembly, for example, on the fourth day of the session it appeared that a considerable number of speakers remained on the list. The General Committee, after examining the situation, "deemed it best that the general discussion end at the latest on Tuesday next" (which was six days after the opening of the session). If necessary, the General Committee suggested that evening meetings should be held.[22] As it turned out, evening meetings were necessary on both Monday and Tuesday, and the general debate was brought to a close at 10:00 P.M. in the evening of the day fixed by the General Committee.[23] At the 1931 Session, the general debate was finished in five days, showing even greater economy of time.[24]

As has previously been indicated, the general debate ends without any definite action. When the last delegate who

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22. Official Journal, S.S. 84, p. 74.

23. Ibid., P. 125.

24. Ibid., S.S. 93, pp. 38-110.

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has expressed a desire to speak has finished, the Assembly turns without further ado to the next item on the calendar. However, in the course of the debate, numerous draft resolutions are proposed, usually referring to some particular aspect of the work of the League which is the subject of the report. These resolutions go to the Agenda Committee, and if approved there, are referred to the appropriate regular committee for consideration, thereafter going through the same procedure as any other item on the agenda. The main significance of the general debate, then, is psychological. Criticisms expressed during the debate can correct or improve the policies and working of the other League organs, especially the Council. Or it may be that particular countries can be trûned from an erroneous policy by having the full glare of publicity focussed on that policy in the Assembly debate. Even more important, the public at large can be enlightened, and brought to a more complete understanding of the policies of nations, through the utterances of their leading statesmen in the general debate.

3. Procedure in Carrying Out Special Functions.

Before turning to Assembly procedure in the conduct of its ordinary business, it might be well to glance briefly at the methods which it follows in carrying out special functions assigned to it. Of such special functions, the most important are (1) admission of new Members into the League of Nations; (2) participation in amending the League Covenant; (3) election of the non-permanent members of the Council; (4) election of the Judges of the Permanent Court (in which the

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Council also plays a part); and (5) participation in the making of international conventions.

Article 1 (2) of the Covenant provides that any fully self-governing State, dominion or colony not named in the Annex may become a member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military, naval and air forces and armaments. No definite procedure which the Assembly must follow is laid down in the Covenant, except for the requirement of a two-thirds majority. But the Assembly in 1920 adapted its methods to the lines suggested in the Article just quoted. In the first place, it takes no action whatever until a State takes the initiative. In other words, it does not offer membership to a State until that State has signified in some way its desire to secure such membership. The usual procedure has been that an application for membership is deposited with the Secretariat, which then places the application on the agenda of the next session of the Assembly. That body, in accordance with its Rules of Procedure, refers the application without discussion to the appropriate committee, which in this case is the Sixth, having to do with Political Questions. It is in this committee that the special procedure is followed. The application is examined by a sub-committee on the basis of five questions worked out by the committee: first, is the request for admission in order; second, is the Government recognized "de jure" and"de facto", and by what States; third, does the country possess a

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stable government and fixed frontiers; fourth, is the country freely governed; and fifth, what have been the acts and declarations of the Government with regard to its international obligations and the regulations of the League in respect of armaments?[25] In regard to the second question, the Committee has explicitly declared that it is not necessary that a Government be recognized by all Members of the League in order to have its application favorably received; on the other hand, it sidestepped the question as to whether admission involves recognition by all Members of the League, by saying "we did not allow legal considerations to hamper us."[26] And in regard to the fifth question, the part dealing with "the regulations of the League in respect of armaments" has been and still remains a dead letter, the League having thus far been unable to agree on any regulations. At any rate, the committee bases its report to the plenary Assembly on these questions, and the Assembly invariably votes in accordance with the committee's recommendations. Since 1920, sixteen new Members have been admitted into the League. On one occasion, the procedure outlined above was not followed. In the Special Session of 1932 the admission of Turkey was discussed and voted upon in plenary session, without reference to a committee.[27] Of course, there were special reasons for this haste at this time. Ordinarily, the care and deliberation of the procedure outlined above can be expected to operate.

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25. See Records, First Assembly, Minutes of 6th Committee.
26. Records, First Assembly, Plenary Meetings, p. 573.
27. Official Journal, S.S. 102, pp. 17-25.

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In connection with the question of amending the Covenant, that document gave the Assembly no part whatever in the amending process. Article 26 (1) merely specified that amendments take effect when ratified by the Members of the League whose representatives compose the Council and by a majority of the Members whose representatives compose the Assembly. Where amendments were to originate, what role the League organs were to play in the process of amendment was left in complete uncertainty. But, in spite of the uncertainty left by the Covenant, the Assembly has possessed itself of a very important share in the process. Since the founding of the League, not a single amendment has gone out for submission to the Governments without the previous approval of the Assembly.

In 1920, before the first session of the Assembly, the Scandinavian Governments jointly proposed several amendments to the Council, for submission to the Governments of all Members of the League. The Council, unwilling to take any action, inserted the proposed amendments in the agenda of the First Assembly. That body, on the recommendation of its First Committee, decided to postpone action for a year. In the meantime, the Council was asked to appoint a Committee to examine the amendments, it being understood that the Committee's conclusions would be reported to the next session of the Assembly.[28] So in 1921, the findings of this Committee were examined by the First Committee of the Assembly, which agreed to recommend favorable action on several amendments. Then the question arose, granting that the Assembly

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28. Records, First Assembly, Plenary Meetings, pp. 259-260.

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should examine and approve all proposed amendments before they are submitted to the Governments for ratification, what form should its approval take, and what majority was required to make its approval effective ? After lengthy discussion, the First Committee suggested an additional amendment, to Article 26 of the Covenant, providing that amendments to that document, when approved by a three-fourths majority of the Assembly, including all Members of the Council, would become effective when ratified by the Members of the League whose representatives composed the Council, and by a majority of those whose representatives composed the Assembly. The Committee further proposed that the Assembly adopt unanimously, as a rule to be operative until this amendment came into force, the requirement that all proposed amendments must be approved by three-fourths of the Assembly in order to be submitted to the Governments for ratification.[29] This was done, and since the proposed amendment to Article 26 has never been ratified, this rule can properly be regarded as still in force. As to the form to be given to Assembly resolutions of amendment, the Committee recommended, and the Assembly agreed that they should take the form of protocols, embodying the resolution of amendment voted by the Assembly, and that they should be signed by the President and the Secretary-General and opened to signature by the plenipotentiaries of Member States.[30] These decisions, taken by the Second Assembly, have regularly been followed since that time in regard to proposals for new

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29. Records, Second Assembly, Plenary Meetings, pp. 683-713.
30. Ibid., p. 713.

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amendments to the Covenant. They indicate that the Assembly is in much the same position as other older conference systems, in respect of the problem of ratification of certain official acts. But in this particular case of amendments, the procedure adopted by the Assembly does not connotate any special weakness. The requirements for adoption of amendments to the American Constitution are very much like those for the adoption of amendments to the League Covenant. In the former case, amendments must be approved by two-thirds of both Houses of Congress, and then ratified by three-fourths of the States of the Union. In the latter case, they must be approved by three-fourths of the Assembly, (including all the members of the Council) and then ratified by the Members of the Council and by a majority of the other Members of the Assembly. Eliminating the special privileges of the Members of the Council, it appears that the League Covenant can be amended even more easily than the American Constitution.

The procedure followed by the Assembly in the drawing up of international conventions shows its essential character to be that of an international conference, but reveals at the same time its superiority over conference systems of the period before 1914. Curiously, there was at first some disagreement as to whether the Assembly had the right and the power to draft conventions directly. In the Second Assembly, when the British delegation proposed a draft resolution recommending the adoption by the Assembly of a draft convention on the traffic in women and children, the French and Yugoslavian delegations questioned the power of the Assembly to take such a step. Discussion made clear, however, that the proposal involved only what had been the prac-

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tice in previous international conferences, namely, the suggesting of a convention for adoption by the Governments. At any rate, the convention (which was based on the Final Act of a Conference on Traffic in Women and Children held in the previous year) was adopted by the Assembly, and its ratification recommended to the Member Governments. Inasmuch as the Assembly was merely making a recommendation to the Governments, it was agreed that a majority vote was sufficient to make the recommendation effective, and to ensure its inclusion in the official list of resolutions and recommendations of the Assembly which was circulated to all Member States upon the close of the session.[31]

The routine followed in the process of drawing up an international convention, while not strictly pertinent to the Assembly alone, does serve to indicate the superiority of the League conference system over those of the pre-war period, especially over ad hoc conferences, which had no administrative agency to perform the necessary preliminary and fact-finding work, and no follow-up agency to continue to press the Fovernments towards ratification. The rules and regulations laid down by the Assembly itself make this superiority sufficiently clear. They are as follows:

"1. Where an organ of the League recommends the conclusion of a general convention on any matter, it shall prepare a memorandum explaining the objects which it is desired to achieve by the conclusion of a convention, and the benefits which may result therefrom. Such a memorandum shall be submitted to the Council of

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31. Records, Second Assembly, Minutes of 5th Committee, pp. 356-363.

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the League of Nations.

2. If the Council approves the proposal in principle, a first draft convention shall be prepared and communicated, together with an explanatory memorandum, to the Governments, with the request that if they feel that the draft should be taken into consideration, they shall inform the Secretary-General of their views, both with regard to the main objects or the suggested means of attaining them, and also with regard to the draft convention. In some cases, it may be desirable to annex specific questionnaires.

3. The draft convention and the observations of the Governments shall be communicated to the Assembly, and the Assembly shall then decide whether the subject appears prima facie suitable for the conclusion of a convention.

4. If the Assembly considers it so suitable, the Council shall arrange for the preparation of a draft convention in the light of the replies received from the Governments, and a new draft convention, together with the replies of the other Governments, shall be transmitted with the request for their opinion on the provisions of the draft and any observations on the above mentioned replies of other Governments.

5. In the light of the results of this second consultation of Governments, the Assembly shall decide whether a convention should be concluded, and if so, whether the draft should be submitted to a Conference, the date of which it will request the Council to fix, or whether it should be submitted forthwith to the Governments.

6. The procedure above set out will be followed, as afr as possi-

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ble, in the case of draft conventions the desirability of which is recognized by a decision of the Assembly either on its own initiative or as the result of a proposal by a Government. In these cases the Council will instruct the Secretariat or some other organ of the League, or specially selected experts, to prepare the above-mentioned report, which shall subsequently be submitted to the Council."[32]

Quite obviously, the careful, continuous procedure of the League system, with its adequate provisions for preparation, negotiation and adaptation, is much more apt to result in the successful conclusion of conventions than the method followed by older conference systems. Of course, in both cases, the need for ratification by Governments is an important check on rapid progress, but even so, the possibility of securing ratifications is increased by the League system, which provides for adequate preparation and for adaptation to the varying national points of view, before a convention is recommended by the Assembly for the consideration of the Member States.

The two other special functions of importance which have been assigned to the Assembly are both concerned with elections, one being the election of the non-permanent members of the Council, the other the election of the Judges and Deputy-Judges of the Permanent Court. In regard to the first of these functions, the procedure has not always been the same. At the First Assembly, no definite regulations could be agreed upon, so four States were appointed for one year, and the problems

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32. Official Journal, S.S. 93, pp. 134-135.

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connected with the question were referred to the committee to be appointed by the Council for the examination of amendments to the Covenant, with instructions to report to the next Assembly.[33] At the Second Assembly, the same difficulties arose again, with the result that the term of the four States named in 1920 was renewed for another year, and the Assembly approved an amendment to Article 4 of the Covenant, adding a new paragraph (2 bis) as follows: "The Assembly shall fix by a two-thirds majority the rules dealing with the election of the non-permanent Members of the Council, and particularly such regulations as relate to their term of office and the conditions of reeligibility."[34] The amendment did not come into force until the summer of 1926, however, so it was not until then that the Assembly adopted final and definite rules. In the interval, it laid down temporary rules, "pending the ratification of the amendment to Article 4", which rules provided for three year terms, no reeligibility for a further three years, and the filling of one third of the six seats (increased from four to six in 1922) each year. As to the election procedure, these rules prescribed election by "scrutin de liste", and by secret ballot. On the first and second ballots, an absolute majority was required for election. If seats still remained to be filled, a third ballot was to be taken, on a list of those who obtained the highest number of votes on the second ballot, up to a number double that of the seats still to be filled. On this ballot, those receiving the highest number of votes,

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33. Records, First Assembly, Plenary Meetings, pp. 412 et seq.
34. Records, Second Assembly, Plenary Meetings, pp. 899-901.

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whether or not an absolute majority, were elected. In case of a tie vote, a special ballot was to be held between the two who were tied, and if there were still a tie, the President was to decide by drawing lots.[35]

In 1926, the amendment to Article 4 came into force. Also in 1926 Germany was admitted into the League, with the well-known result that the non-permanent membership of the Council was increased to nine. At its regular session of that year, the Assembly finally adopted the rules for the election of the non-permanent Members of the Council, rules which still remain in force, even though the 1933 Session approved the provisional creation of an additional non-permanent seat in the Council. The first rule prescribes that, at each ordinary session, the Assembly shall elect three non-permanent Members, for a term commencing immediately upon their election, and ending on the day of the elections held three years later. Provision is made for the filling of vacancies before the expiration of the term by a by-election, the term of the Member so elected ending on the date when the term of the Member whose place it takes would have ended. The method of balloting is left as was fixed in the temporary rules adopted in 1922, that is, secret ballot on a list of names of States (not of individuals), majority vote being sufficient for election. The second rule, which deals with re-eligibility, is the important one, which has made possible the third classification of Council seats - the "permanent non-permanent". This rule reads: A retiring Member may not be re-elected during

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35 Records, Third Assembly, Plenary Meetings, pp. 350-351.

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the period between the expiration of its term of office and the third election in ordinary session held thereafter, unless the Assembly, either upon the expiration of the Member's term of office or in the course of the said period of three years shall, by a majority of two-thirds of the votes cast, previously have decided that such Member is re-eligible. The Assembly shall pronounce separately, by secret ballot, on each request for re-eligibility. The number of votes cast shall be determined by the total number of voting tickets deposited, deducting the blank or spoiled votes. The Assembly may not decide on the re-eligibility of a Member except upon the request in writing made by the Member itself. The request must be handed to the President of the Assembly not later than the day before the date fixed for the election; it shall be submitted to the Assembly, which shall pronounce upon it without referring it to a committee, and without debate. The number of Members re-elected in consequence of having been previously declared re-eligible shall be restricted so as to prevent the Council from containing at the same time more than three Members so elected. If the result of the ballot infringes this restriction to three Members, those of the Members affected which have received the smallest number of votes shall not be deemed elected." The third rule is merely an explicit reservation of the right of the Assembly to change the regulations at will. The fourth and final rule was concerned with the temporary provisions for the election of 1926, in which all nine Members were to be elected, three for three years, three for two years, and three for one year. It was further specified that not more than three of the nine could be immediately declared eligible for re-election upon the expiration of their first term of office.[36]

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36. Official Journal, S.S. 44, pp. 68-77.

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The distribution of the non-permanent seats since 1926 indicates that Poland and Spain (the latter since her return to the League in 1928) have secured for themselves the "permanent non-permanent" seats. The States elected are as follows:

1926
3 year terms-- Poland, Chile, Roumania;
Poland made re-eligible.
2 year terms-- Colombia, Netherlands, China.
1 year terms-- Belgium, Salvador, Czechoslovakia.

1927 -- Cuba, Finland, Canada - none made re-eligible.
1928 -- Spain, Persia, Venezuela - Spain made re-eligible.
1929 -- Poland, Yugoslavia, Peru - Poland made re-eligible.
1930 -- Guatemala, Norway, Irish Free State - none re-eligible.
1931 -- China, Panama, Spain - Spain made re-eligible.
1932 -- Poland, Mexico, Czechoslovakia - Poland re-eligible.
1933 -- Denmark, Argentine, Australia, - none re-eligible.

The procedure which the Assembly follows in electing the Judges of the Permanent Court is prescribed in the Statute, and needs no special comment. It might be mentioned, however, that the procedure, whereby both Council and Assembly vote simultaneously, was worked out by the Committee of Jurists who formulated the Statute, to solve the thorny problem which had obstructed the creation of a Court of International Justice by the Second Hague Conference. That problem was the question of national representation on the bench of the Court, the plan of 1907 breaking up on the rock of dissension between Great Powers and Small Powers. The method prescribed in the Statute of the Permanent Court satisfied both groups, and as a result there has been little friction, the elections passing off smoothly both in 1921 and 1930.

A memorandum by the Secretariat, on the occasion of the first elections in 1921, gives a more comprehensive explanation of the procedure followed in the Assembly, than might be gathered from a recitation of the pertinent articles in the Statute: "The election begins at 10:00 A.M. September 15th. At the same

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time, the Council meets in a private sitting. This meeting of the Assembly is public. The names of the eligible candidates will be found in a list circulated a few days before.[37] The election will be by secret ballot on the list of names. In your places will be voting papers for eleven names, the first election being for eleven judges. Later, there will be provisions for the four deputy judges.[38] The voting papers are to be filled out with regard to the provisions of the Statute, that is, only one national of any Member of the League may be elected, and the electors are to keep in mind not only the qualifications required, but also that the whole body should represent the main forms of civilization and the principal legal systems of the world. The voting papers will be placed in the urn by the heads of the delegations voting in turn, and the General Committee will then count the votes, and the result be announced by the President. At the same time, papers prepared by the Under Secretary-General will be circulated, showing a complete list of the candidates, with the number of votes obtained by each. These tables may be useful for ensuing ballots. The candidates who obtain the required absolute majority shall be included in the list elected by the Assembly. Ballots will continue until we have a complete list of eleven names which have secured the required majority of votes in the Assembly. Each new ballot will be held for the number of

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37. Article 4 of the Statute provides that the members of the Court shall be elected from a list nominated by the national groups in the Hague Court of Arbitration. Each national group may nominate not more than 4 persons, only 2 of whom may be of their own nationality. If a Member is not represented in the Hague Court, it may appoint a national group to make the necessary nominations.

38. In 1930, before the Protocol of Amendment to the Statute had come into force, the Assembly voted to increase the number of judges to 15.

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places remaining to be filled. In accordance with Rule 21 of the Rules of Procedure, voting will be restricted at each ballot to the unsuccessful candidates who obtained the greatest number of votes at previous ballots, to a number not more than double the number of seats remaining to be filled. The Council will proceed simultaneously in the same manner to the compilation of a list of eleven names; this list will be communicated under seal to the President of the Assembly. Upon the termination of these proceedings, the President of the Assembly will compare the two lists; and those appearing on both he will declare to be members of the Court. It is possible that the first comparison will not result in the appointment of the eleven required. The President of the Assembly will then ask you to meet again for a further ballot, to elect a list of candidates equal to the number of seats still to be filled. An absolute majority is again required for election. The Council will meet at the same time, if possible. Once the two lists are established, they will again be compared, and the candidates on both declared elected. If a third meeting becomes necessary, the procedure will be identical. May I remind you that after this third meeting, the President of the Assembly will have to consult you as to whether you wish to hold a further meeting, or prefer to exercise your right of asking for the formation of a Joint Conference entrusted with the duty of suggesting candidates for filling the remaining seats. But, it should be noted, even if you do not decide to appoint this Joint Committee, it would have to be set up in the event of its constitution being proposed by the Council. When the eleven are elected, they will be officially notified, and asked to inform the Assembly whether

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they accept or not. If one or more refusals would occur, it would be necessary to hold fresh electoral meetings."[39] In addition to these provisions, the Statute specifies that if the Joint Conference finds it impossible to procure an election by both the Council and the Assembly, the members of the Court already elected shall proceed to fill the vacant seats from among the candidates voted on in either the Council or the Assembly. Further, it provides that vacancies which may occur are to be filled by the same method as that for a full election.[40] Also, the same method is employed for the election of deputy judges, but it should be mentioned that the amendments to the Statute drawn up in 1929 will, when they come into force, do away with the office of deputy judge, the number of judges being increased to fifteen.

4. Procedure in Ordinary Business

So much for the procedure of the Assembly in carrying out its special functions. That it works smoothly and efficiently in carrying them out is quite clear. But they provide no adequate basis on which to judge the general efficiency and smoothness of Assembly procedure. It is necessary, therefore, to turn to a consideration of the methods and conditions under which the Assembly carries out its ordinary business.

First, however, the vagueness of the term "ordinary business" must be cleared up. It is no easier in the case of the

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39. Records, Second Assembly, Plenary Meetings, pp. 222-223.

40. See Records, 1st Assembly, Plenary Meetings, pp. 468-478, for the Statute.

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Assembly than it is in that of a national legislature, to draw a hard and fast line between ordinary business and extraordinary business. There are many questions which come up too rarely to be regarded as ordinary. But such borderline cases can safely be ignored here. Plenty of instances of ordinary business can be found without them. Questions such as the work of the Economic and Financial Organizations, or of the Advisory Committee on Traffic in Opium and other Dangerous Drugs, appear regularly on the agenda of the Assembly. Also, there is always the item concerning the budget for the following year. In a general way, items which go through the normal and regular procedure in the Assembly, and which appear regularly on its agenda, may be regarded as ordinary business.

As has already been indicated, the items of ordinary business contained on the agenda are distributed among the six regular committees early in the session, before the debate on the annual report begins. There is rarely any difficulty in this process of distribution, the President proposing the reference of related items to the appropriate committees. The items are usually so drawn up that there can be no question as to which of the committees should receive them. Meanwhile, the committees are constituted, and their chairmen and vice chairmen elected, in accordance with the procedure already explained. Once organized, the committees mark time until the week or thereabouts which is devoted to the general debate has passed. Not until then do they begin to function on the ordinary business of the Assembly. It should also be mentioned that, during the general debate, quite a few draft resolutions are usually introduced,

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which are referred to the Agenda Committee. Then, at the conclusion of the debate, that body makes its report on these resolutions, recommending that those which have been found acceptable be referred to the appropriate regular committee, and thereby the agenda of the latter is increased by the addition of such items before they commence to work.

An important problem in connection with the proper functioning of the committees is the question as to the time of their meetings. Of course, some conflict is inevitable, in view of the great need for economy of time, and with the increasing amount of work given to the annual Assembly sessions, this conflict has likewise grown more serious. For the first two or three years, it was found that the committees could finish their work on time by having only two meet each day, twice a week. For instance, the First and Fifth Committees would meet on Mondays and Thursdays, the Second and Fourth on Tuesdays and Fridays, and the Third and Sixth on Wednesdays and Saturdays. Thus there was relatively little conflict. It soon became necessary, however, to have the committees meet at the rate of three per day, three times each week, and now the Assembly's work has grown to such proportions that all six committees generally meet every day in the week. This makes necessary at least some division of the time available each day, between the committees. The General Committee has arranged as a general rule for the First, Second and Sixth Committees, on the one hand, and the Third, Fourth and Fifth Committees on the other hand, to meet at the same time each day. The former group is usually given the morning hours, the latter the afternoon. The time arrange-

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ments in the Assembly of 1931 are fairly typical.[41] The Plenary Session opened on Monday, September 7th. On that day, the six committees, constituted according to the procedure already indicated, met for the election of their chairmen. The debate on the annual report closed on September 12th, consuming exactly one week of the session. Thereafter, there was no plenary session until September 23rd; the session ended September 29th. Meanwhile, the six committees met as follows:

September 9th -- First, Second and Sixth at 4:00 p.m.
Third, Fourth and Fifth at 5:15 p.m.
(These meetings were held for the election of vice chairmen and for examination and adoption of agenda.)
September 12th - Third, Fourth and Fifth at 5:30 p.m.
September 14th - First and Second at 10:30 a.m.
Third, Fourth and Fifth at 5:15 p.m.
September 15th - First at 10:15 a.m.
Second and Sixth at 10:00 a.m.
Third, Fourth and Fifth at 3:30 p.m.
September 17th - First at 10:15 a.m.
Second at 9:30 a.m.
Sixth at 10:00 a.m.
Third at 4:00 p.m.
Fourth and Fifth at 3:30 p.m.
September 18th - same as September 17th
September 19th - First and Second at 9:30 a.m.
Sixth at 10:00 a.m. and at 9:30 p.m.
Third at 3:00 p.m.
Fifth at 3:30 p.m.
September 21st - First at 10:00 a.m.
Second and Sixth at 9:30 a.m.
Fourth and Fifth at 3:30 p.m.
Third at 4:30 p.m.
September 22nd - First at 10:00 a.m.
Second at 9:30 a.m. and at 4:30 p.m.
Third at 6:00 p.m.
Fourth at 5:00 p.m.
September 23rd - First and Second at 3:30 p.m.
Third at 3:00 p.m.
Fourth at 10:00 p.m.
September 24th - First and Third at 3:00 p.m.
Fourth at 5:30 p.m.

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41. See Journal, Twelfth Assembly, 1931.

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September 25th - Fourth at 5:00 p.m. and at 10:15 p.m.
September 26th - Fourth at 3:30 p.m.
September 28th - Third at 10:50 a.m. and at 10:00 p.m.

The first task of each committee, after its organization has been completed, is the examination and adoption of its agenda, that is, of the particular items from the Assembly agenda which have been referred to it by the plenary body. The fact that the committees go through the process of examining and adopting their respective agendas would seem to indicate that they had the power to accept or reject the agenda as given to them by the Assembly. But this is not the case. The question was definitely decided in the Session of 1927. The Assembly had voted to refer an item dealing with the question of alcoholism, and what the League might do about it, to the Second Committee. That body, however, was not wholly satisfied with the arrangement. The discussion at its first meeting indicated that it preferred the item in question to go to the Fifth Committee, which dealt with social and humanitarian questions. The issue was referred to the General Committee, which held that only the plenary body could take up a fresh discussion of the question, it having been that body which alone had the power to distribute items on the agenda; consequently, until the Second Committee obtained a reversal of the decision of the Assembly, the item remained on its agenda.[42] At any rate, the examination and adoption of the agenda by the committees is nearly always a mere formality. As the figures just quoted indicate, this step is carried out as one of the regular preliminaries, before the

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42. Official Journal, S.S. 56, pp. 10-11.

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general debate in the Assembly has been finished. But it should be mentioned that there is frequently a sort of interchange of items between the committees, on their own initiative. In 1931, for example, the Assembly referred the item on the work of the Commission, of Enquiry for European Union to the Sixth Committee. The latter decided to refer the technical questions, particularly economic and financial questions, dealt with in the report of the Commission to the Second Committee. But it reserved the right to submit to the Assembly proposals as to the constitution, organization and methods of work of the Commission of Enquiry.[43] In other words, the Sixth Committee was willing to refer an important part of one of the items on its agenda to the Second Committee, but only on condition that the latter report back to it rather than directly to the plenary body. The Second Committee accepted the addition to its agenda, even under the condition laid down; so even though the committees cannot simply drop items from their agenda, they can, through mutual cooperation, correct what they regard as mistakes made by the plenary body in the distribution of the agenda among the committees.

The next step, after the formal examination and adoption of the agenda, is to fix the order in which the various items are to be taken up by the committee. The usual procedure is for the Chairman to suggest, and the Committee approve, the order of the day. Of course, the committee cannot rigidly fix the order in which the items are to be considered. Discussion on one item may last longer than was expected; controversy may appear in

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43. Official Journal, S.S. 99, p. 39.

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connection with an item which was expected to cause no difficulty. As a general rule, however, it has become the practice to deal with the least controversial items first. There are two logical reasons for this. First, it is desirable to clear the field as early as possible of the items on which there is general agreement, so that ample time and concentration may be given to those of a more controversial nature. Secondly, the plenary sessions can be resumed earlier if they are given something to do by the committees in the earlier stages of their discussions. Thus time is saved, and the plenary body is prepared to devote its full attention to the controversial items as they emerge later from the hands of the committees.

In the actual working out of the questions before them, the committees do not all employ exactly the same methods. No rigid rules have been prescribed for them, and the result has been that each committee follows the method best adapted to its particular type of work. According to the first of these methods, the consideration of an item opens with a general discussion in the committee as a whole. The purpose of the general discussion is to give the various delegates an opportunity to present their views on the item in question. In this way any disagreement between the Governments is revealed and explained. The next step is the appointment of a sub-committee, on which the various conflicting points of view, as revealed in the general discussion, are all represented. The function of the sub-committee is to work out the most progressive proposals on which all the delegations can agree. Finally, the draft report and resolutions proposed by the sub-committee are examined in detail by the committee

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as a whole, the maximum agreement possible being thereby attained. This method is generally employed in the First, Third, and Sixth Committees, for obvious reasons. It is a method adapted to the solution of controversial questions, and it is in these three committees, dealing respectively with legal and constitutional questions, the reduction of armaments, and political questions, that nearly all of the questions of political importance, that is, the questions in which the national Governments are directly interested, and on which they are especially sensitive, are considered. So a procedure adapted to the working out of items of a controversial nature is most desirable in these committees.

A second method is regularly employed in the Second and the Fifth Committees, the former dealing with the work of the technical organizations, the latter with social and humanitarian questions. It is clear from their functions that the procedure in these committees should aim not so much at the solution of controversy as at the securing of the greatest possible technical accuracy and efficiency. The procedure which is followed in these committees does fill their needs very well. Instead of commencing with general discussion, the first step in these committees is the appointment of a rapporteur on the item, whose duty it is to make a report to the committee as a whole. The member chosen as rapporteur on a particular item by the committee is generally thoroughly familiar with the developments in regard to that item. His report, then, becomes the basis of discussion in the committee. The purpose of the discussion is not to work out an agreement on principles between the delegates; it is rather to make sure that the detailed proposals made by the rapporteur

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are calculated to promote the principles on which there already is agreement. As a result, discussions in these committees take on a much less controversial, and much more technical character, than those in the other committees.

The procedure followed in the Fourth Committee is somewhat different from either of those explained above, chiefly in that it is more regular, and more fixed, than is the case in the other committees. This is possible because its agenda follows very much the same routine from year to year. The Fourth Committee examines the same questions every yearm with slight variations now and then. Such being the case, it has been able, to a much greater extent than the other committees, to develop a fixed routine for the performance of its duties. First, there is the examination of the reports of the Supervisory Commission on its activities during the past year; second, general examination of the budget for the following year, which gives the delegates an opportunity to express the views of their Governments on the general financial policies of the League; third, detailed examination of the budget, chapter by chapter and article by article; fourth, examination of supplementary credits, proposed either by individual Members of the League after the preparation of the regular budget, or by one of the other committees during the Assembly session; and fifth, consideration of miscellaneous questions connected with the financial administration of the League. All these steps, it should be noted, are carried out by the committee as a whole; there are no rapporteurs appointed, as in the Second and Fifth Committees, to present reports on particular items, and only one sub-committee is regularly employed by the

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Fourth Committee, the sub-committee on Contributions in Arrears. Even in this case, the sub-committee is not used to iron out controversies or conflicting points of view, but to protect the sensibilities of the States whose contributions are in arrears. Such States are much less apt to be offended, if the ways and means for securing payment of the arrears are discussed in the privacy of a small sub-committee, than if the whole situation is aired in the public meetings of the whole committee. Also, there is one case in which the Fourth Committee regularly appoints a rapporteur. Before the general examination of the budget begins, a rapporteur on budgetary questions is named, with the duty of drawing up, after the budget has been approved, a draft report to the Assembly. This draft report is examined in detail by the committee as a whole, and amended as the committee desires, before being presented to the Assembly. This rapporteur, however, has a different function than those named in the other committees. The latter are named to initiate proposals for examination and approval by the committees, whereas the former is appointed to follow the discussions in the committees, and then to summarize the essential points of these discussions in a draft report to the Assembly. At any rate, the Fourth Committee makes less use of either rapporteurs or sub-committees than the other committees of the Assembly. Probably the chief reason for this is that the Fourth Committee has less need for such agencies to fulfill its functions adequately. The greater part of its regular agenda, including the most important item of all, the budget, is very fully prepared before reaching the Fourth Committee. Its task is essentially not one of initiation, but of examination and

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alteration; hence it has little need for either sub-committees or rapporteurs, and even where it does employ them, their functions are considerably different than is the case in the other committees.

Mention has been made of rapporteurs being appointed in the Second, Fourth and Fifth Committees. These rapporteurs are to be distinguished from another class of rapporteurs, appointed by all six of the regular committees. The former are appointed to report to the committee itself; the latter to report to the plenary Assembly. In every committee, after agreement has been reached on draft proposals to the Assembly, a rapporteur is named to present those proposals in the Assembly. This procedure is borrowed directly from the French legislative procedure, and has operated very satisfactorily in the Assembly, especially because the committees have shown good judgment in choosing their rapporteurs. In the Second and Fifth Committees the delegate chosen as rapporteur to the Assembly on a particular question is almost always the same man who served as rapporteur on that question in the committee itself. In the First, Third and Sixth Committees, the chairman of the sub-committee which has examined an item is usually named to report that item to the Assembly. As a general rule, therefore, the men chosen as rapporteurs to the Assembly are those best fitted to perform the task, due especially to the positions they have held within the committees.

The main function of the Assembly committees is to work out proposals for consideration by the plenary body. The draft proposals made by the committees usually follow the same

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general form, consisting of a concise report of the discussions on the item in the committee, and the draft resolutions or recommendations drawn up by the committee for adoption by the plenary body. The character of these resolutions and recommendations will be discussed later, when we return to the question of the procedure in the plenary Assembly.

The discussions in the committees are generally of a very high caliber, due chiefly to the fact that the delegations regularly choose as their representatives on each committee those who are best fitted to take an active and an able part in the work of the committee. For example, the Fifth Committee of the 1931 Session contained thirteen doctors and seventeen women, all having special training in social and humanitarian questions.[44] Another result of this practice of appointing delegates to committees on the basis of their special training has been that the discussions in committees sometimes become highly technical, especially in the Second and Fifth Committees, which deal with more technical subjects than the other committees. Also, as might be expected, the committee debates are normally briefer and more businesslike than is the case in the plenary Assembly. Little time is wasted on oratory, primarily because the organization of the committee is adapted to efficient conduct of business, and because there is less of a "public" in attendance at committee meetings than at the plenary sessions. But this is not invariably true. Some committees, like the Third, dealing with the reduction of armaments, have a special attraction for the public, and the result is less business,

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44. Official Journal, S.S. 98, pp. 5-6.

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and more speech-making.

Sometimes, too, discussion in the committees becomes highly inflamed and controversial, which might not be expected in an international body such as the Assembly, or in its committees. An interesting illustration of this is found in the First Committee of the 1930 Assembly. In the discussion on the organization of the Permanent Court, it was revealed that the opposition of Cuba alone prevented the fulfillment of the conditions stipulated in the Protocol of September 14th, 1929, for the coming into force of that protocol. M. Politis, of Greece, was not at all backward in voicing his opinion: "I thank the Chairman for having these documents read. They explain the situation in which we are placed. We note that the effort of good will which the Council asked the States interested in revising the Statute to make has been made by all but one. One single State has formally opposed the coming into force of the amendments to the Statute ofnthe Permanent Court of International Justice. It would be out of place to criticize the attitude of a Government which in the full exercise of its sovereignty decides to adhere or not to adhere to an international agreement. But we have the right to express an opinion..... I can only express my deepest regret that, for reasons which have proved inaccurate beforehand, a country should have refused to show that good will which was asked for, and should have thus held up a reform desired by over forty States." The delegate from Cuba, M. Ferrara, immediately rose to reply. "I am bound to oppose with the utmost energy the methods instituted by M. Politis in this committee. I cannot agree that the committee should discuss the reasons which a State

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puts forward in accomplishing an act of sovereignty. Moral pressure should not be brought to bear on a State to make it ratify or approve an international Convention..... Neither Greece nor M. Politis in person has the right to dictate to the Cuban Government the line of conduct it should follow..... He has violated another principle by discussing in the committee a report made by the Council. The Council, under Article 4 of the Protocol, is entitled to take a decision. It has taken a decision, in this case that the conditions stipulated are not fulfilled, and the question is settled. No one, even the highest authority in this committee, can now discuss the decision of the Council." The Chairman of the Committee thereupon explained that M. Politis had made remarks at the end of his speech which he as Chairman was unable to prevent, but he had allowed equal freedom to M. Ferrara, so he felt the honors were even. To which M. Ferrara cried: "Jus retorquendi!" Finally, the Chinese delegate proposed, "inasmuch as the atmosphere within this room is at a considerably higher temperature than outside, and in the interests of harmony, this discussion should be closed." And so this particular controversy came to an end.[45]

An inspection of the minutes of the committee meetings reveals how large a number of States participate in the discussions. For instance, in the First Committee of the 1925 Assembly, twenty-one States were represented in the discussion, in the Second, twenty-five, in the Third, twenty-three, in the Fourth, thirty-one, in the Fifth, thirty-two, and in the Sixth, twenty-

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45. Official Journal, S.S. 85, pp. 10-11.

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eight.[46] In 1931, the situation was not greatly altered. The delegates of thirty-four nations took part in the debates of the First Committee, thirty in the Second, thirty-three in the Third, thirty-three in the Fourth, thirty-two in the Fifth, and thirty-three in the Sixth.[47] Furthermore, in every committee it is very nearly the same countries' delegates who participate in the discussions -- the Great Powers, the Little Entente, the Scandinavian countries, the Netherlands, Switzerland, the British Dominions, Austria, Hungary, and the Balkan States. Latin America is the least active section of all, the reason being the small delegations from the Latin American countries. Quite obviously, a delegation of one or two cannot play a very active part in the work of six different committees. The same thing is true of the delegations of such countries as Estonia, Latvia, Lithuania, Luxembourg, Liberia, Persia, Albania, Abyssinia and Siam. Their delegations are never large enough to provide adequate representation in all the committees. As a result, it seems safe to say that all the work of the committees is done by slightly more than half the official members of the Assembly.

Rule 27 of the Rules of Procedure apecifies that "these Rules shall apply to the proceedings of the Committees of the Assembly."[48] Thus the functions of the Chairman of a committee are identical with those of the President of the Assembly, in connection with the regulation of discussions and the like. In a

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46. Official Journal, Special Supplements 34-39.
47. " " " " 94-99.
48. See Rulesof Procedure, Rule 27.

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general way, this means that the Chairman of a committee directs the work of his committee, ensures observance of the appropriate Rules of Procedure, accords the right to address the committee, declares debates to be closed, puts questions to the vote, and announces the results of voting in the committee. However, in several respects, the Rules of Procedure are not enforced very rigorously in committees. This is only to be expected, in view of the fact that the fixed and formal rules made for a large body like the Assembly are not always workable in a smaller, more informal body such as a committee. For instance, if the committees were to take votes in the very formal manner prescribed in the Rules, the result would be a useless waste of time.

Much more important is the question of voting requirements in committees for the adoption of a measure, Rule 19 reads: (1) Except where otherwise expressly provided in the Covenant or in the terms of a treaty, decisions of the Assembly shall be taken by a unanimous vote of the Members of the League represented at the meeting. (2) All matters of procedure at a meeting of the Assembly, including the appointment of Committees to investigate particular matters, shall be decided by a majority of the Members of the League represented at the meeting. (3) All decisions taken in virtue of these Rules shall be considered as matters of procedure. (4) A majority decision requires the affirmative votes of more than one half of the Members of the League represented at the meeting. (5) For the purposes of this Rule, representatives who abstain from voting shall be considered as not present."[49]

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49. See Rules of Procedure, Rule 19.

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Were this rule rigorously enforced in the committees, in accordance with Rule 27, progress would be slowed down tremendously. Fortunately, the unanimity rule is not observed in committees. The question was decided in the 1924 Session. The delegation of the Netherlands had proposed an amendment to Rule 27, specifying that a majority vote should be sufficient to take decisions in committees. The First Committee, to which the proposal was referred, decided against it, on the ground that it was unnecessary. The reasons were given in the report to the plenary Assembly: "The only effect of the proposed amendment would have been to legalize the existing and almost invariable practice of the Committees. Rule 27 states that the Rules of Procedure shall apply to the proceedings of the Committees of the Assembly. Although unanimity is required for decisions of the Assembly, since States are bound by those decisions, the same rule obviously cannot apply to the decisions of the Committees, which are merely a preliminary and provisional form of the resolutions finally adopted by the Assembly. There might be some ground for thinking that, as decisions of the Assembly must be unanimous, it would be useless for the Committees to be able to take majority decisions. Experience, however, shows this not to be the case; on the contrary, delegations on Committees frequently attempt to secure acceptance of their own point of view, although their objections are by no means final, while in the majority of cases the delegates are prepared to submit to the will of the majority of the Assembly, or at least to abstain from voting. The contrary is very rarely the case, and occurs only when the opposition raised during the proceedings of a Committee is absolutely

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decisive, or is due to a profound divergence of views. In such cases, the Committee reopens the question if the subject permits, and attempts to find a solution which will be unanimously accepted. By so doing it prevents a dissentient vote in the Assembly, which would be a most regrettable occurrence. It would be better not to make any definite provision practically binding the Committees to transmit to the Assembly proposals which had only been accepted by a majority, when there might have been a prospect of unanimity if a further exchange of views had taken place. The First Committee proposes, therefore, to keep the elastic procedure followed thus far, and to leave it to the Committees to decide when or not to adopt resolutions by majority vote." The views of the First Committee were approved by the Assembly.[50]

The extent to which the non-observance of the rule of unanimity has been carried in the Committees was well illustrated in the session of 1925. After long discussion in the Fourth Committee, a proposal for a supplementary credit of 150,000 francs for a Commission of Enquiry into the Cultivation of the Opium Poppy in Persia was put to the vote. The result was 13 for, and 12 against, with 11 abstentions, and the Chairman thereupon declared the proposal adopted. The Venezuelan delegate complained, questioning the propriety of the Chairman's action in declaring the proposal adopted, and claimed further that with few exceptions the rule of unanimity was operative in Committees. The French delegate replied that if unanimity were required, the Committees would very seldom get anything done, and that, apart

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50. Official Journal, S.S. 21, pp. 111-112.

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from this practical aspect, it was not altogether clear that a committee's resolutions, mere proposals to the Assembly as they were, were properly to be treated as decisions at all. Of course, he admitted, if a delegation could not see its way to defer to the opinion of the majority of the Committee, it was always free to oppose the definitive vote in the Assembly. But if delegations were continually to avail themselves of that liberty, it would be difficult to maintain the existence of the League. The Chairman then intervened, observing that the precedents, of which he had made a very careful study, all supported the view of the French delegate. To this the Venezuelan delegate replied that he knew what the practice was; he merely wished to record his opinion that the assent of the minority to the will of the majority, however long established in practice, would never be anything else but a voluntary submission to a plain derogation from the strict requirements of the law.[51] In the plenary session, it may be mentioned, the Venezuelan delegation made "every reservation in regard to the inclusion of this credit in the budget of 1926, but as it desires to show a spirit of conciliation, it will abstain from voting."[52] Since that time, there has been no serious questioning of the prevailing practice of taking decisions in committees by majority vote. The significance of this practice in regard to the ability of the Assembly to make any progress is obvious. Were the rule of unanimity enforced, it is safe to say that the achievements of the Assembly would be far

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51. Official Journal, S.S. 37, pp. 56-62.

52. " " S.S? 33, p. 145.

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less than is actually the case.

A very important feature of the procedure followed in the Assembly committees is the wide use made in all of them of external assistance. In the Second and Fifth Committees, for example, the Chairmen of the various technical organizations of the League are regularly in attendance when the work of their particular organization is under discussion. Their presence, and the active part they play in the discussion, makes available to the committees a source of first-hand information which they would not otherwise possess. The effect on the work of the Committees is obvious. When, for instance, it is a member of the Advisory Committee on Traffic in Opium and other Dangerous Drugs who is appointed rapporteur to the Fifth Committee on the item "Traffic in Opium and other Dangerous Drugs", the discussions in the Committee on that subject, and the proposals which it decided to present to the Assembly are apt to be much more authoritative, practical and complete than would be the case if there were no such intimate connection set up between the permanent organizations and the Assembly committees. Further, this use of external and competent assistance is not restricted to the two committees mentioned, although it is most obvious in their case. The First Committee has frequently had as participants in its discussions on questions of international law or amendments to the Covenant one or more official members of conferences on the codification of international law or of a Committee appointed by the Council to examine proposed amendments to the Covenant. In the Third Committee, the members of the Preparatory Commission for the Disarmament Conference have been regular participants.

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The Fourth Committee never considers the budget unless the Secretary-General, the Director of the Labor Office, and the Registrar of the Permanent Court are in attendance, to give any explanations on the budgets of their particular organizations which may be needed. Of course, the Chairman of the Supervisory Commission, especially since 1930, is always at the disposal of the Fourth Committee. And in the Sixth Committee, one or more members of the Mandates Commission are usually available to explain the work of their organization. It appears, then, that all the Assembly committees take advantage of this very beneficial practice of admitting into their discussions various non-members, technical officials and the like, who have a wider and more practical knowledge of the questions under discussions than the ordinary delegates to the Assembly. It should be mentioned that the basis of this practice is purely voluntary. The committees have no right to compel the attendance at their meetings of these permanent officials. But, so long as the Assembly maintains its control of League finances, they will no doubt continue to be more than willing to appear before its committees to explain and justify the work of their organizations.

A further precedent of far-reaching importance was established by the Third Committee of the 1931 Assembly, in the admission of representatives of non-members of the League into the discussions. For several years previously, States non-members of the League, especially the United States, had cooperated with several of the League's technical organizations, through the appointment of "unofficial observers" and the like. But never before had they been granted the privilege of influencing

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the decisions of the Assembly through participation in the work of its committees.

In September, 1931, the Disarmament Conference was scheduled to open in the near future, and in the Assembly of that year the delegations of Denmark, Norway, Sweden, the Netherlands and Switzerland proposed a draft resolution that the Assembly urge the national Governments who were to take part in the coming Conference to agree on an armaments truce for the duration of the Conference. This draft resolution, after examination by the Agenda Committee, was referred to the Third Committee for consideration. Before it was brought up for discussion, the Chairman, Mr. Peter Munch of Denmark, proposed that, as this question was closely connected with the work of the Preparatory Commission, in which representatives of the United States, Turkey and the Soviet Union had taken part, these three countries be invited to send delegates to this Committee when it came to discuss the proposed armaments truce. He added that, in order not to delay the work of the Assembly, they might possibly appoint diplomatic representatives accredited to nearby capitals. M. Madariaga, the Spanish delegate, approved the Chairman's suggestion, but wanted to know why the invitation should be restricted to three States. It was a delicate matter for the League to choose between absent States. All should be invited, and they could then accept or refuse as they saw fit. Massigli of France was doubtful. He had no objection in principle, but the proposal in his view raised such an important point of procedure that he thought it should be referred to the General Committee. He was supported by the delegate from Uruguay, M. Buero, who complained of the abruptness with which the proposal had been made. The Chairman agreed that

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it might have been better to have a few hours to think it over, but added that such situations were not infrequent in the work of the Assembly. At any rate, he explained, the position of such representatives would be similar to that of persons taking part in the Committee's work without being members, such as technical officials and the like. Finally, he proposed that the Committee adopt his suggestion and act upon it subject to the approval of the Bureau of the Assembly. To this also M. Massigli objected, on the ground that the Committee might find itself in an embarassing position if, after it had sent the invitations, it should find that the Bureau disapproved. To reach an agreement, the Committee adjourned for half an hour, while the delegations not in agreement met informally. The result was a new proposal, that the President of the Assembly should request the Council to approve the invitations to be sent to all the States invited to the Disarmament Conference which were non-members of the League. This was agreed. But the President of the Assembly went, not to the Council, but to the General Committee of the Assembly, which decided that, without further procedure being necessary, the President of the Assembly, in agreement with the General Committee, was qualified to issue the invitations. He did so immediately, the States invited being Afghanistan, the Argentine, Brazil, Costa Rica, Egypt, Ecuador, Salvador, Turkey, the Soviet Union and the United States. Acceptances came from Costa Rica, Egypt, Turkey and the United States, the remainder sending polite refusals. At any rate, the representatives of these four States were admitted the next day into the discussions of the Third Committee, the delegate of the United States, Mr.

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Hugh Wilson, playing an especially active part.[53] The possibilities of the more frequent use of this practice inaugurated by the Third Committee in 1931 are of great importance. The force of the resolutions of the Assembly will increase noticeably if it is known that they have the support even of important non-members of the League. Thus, if this should become a regular practice, and if the non-member States should show a willingness to cooperate, the defects and difficulties arising from the non-universal character of the League would be largely removed. To the present, however, the precedent of 1931 has shown no tendency to become a regular feature of Assembly procedure; and perhaps the other condition mentioned, that the non-member States show a spirit of cooperation, is even more impossible of realization.

A further important question connected with the procedure of the Assembly committees is that of the relations between the committees themselves. It has been indicated earlier that frequent use is made of joint sub-committees, especially between the First or the Fourth Committee on the one hand, and one of the other committees on the other hand. The procedure followed is a relatively simple one. When one of the committees decides that it is desirable to form a joint sub-committee with another, it communicates its desire, through its Chairman, to the Chairman of the other committee. The latter then determines the opinion of his committee, and if it is agreeable, a small sub-committee, usually of three, is named to meet and confer with a sub-committee of like size, and appointed in the same manner,

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53. See Official Journal, S.S. 93, pp. 100-101. (Plenary Session). and S.S. 96, pp. 30-35 (3rd Committee.)

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by the other committee. The meetings of such joint sub-committees are invariably private, and ordinarily they keep no minutes. Their main purpose, as already seen, is usually to make available to one committee the special training and equipment of another. In the case of such joint sub-committees in which the Fourth Committee is concerned, the purpose is to attempt to secure agreement between the Fourth Committee and the other committee on the credits necessary for a particular task which the latter committee desires to see carried out.

As a result of its wide control over the financial administration of the League, the Fourth Committee has attained a position of considerable superiority over the other Assembly committees. This has been the case, however, only since 1922. Before that year, any committee might present proposals to the plenary session involving expenditure of League funds beyond the provisions of the regular budget. The result was an undesirable increase in League expenditures, in 1920 and 1921, so the Assembly of 1922 amended the Rules of Procedure to insure an efficient and centralized control of expenditures. The amendment prescribed that no resolution involving expenditure could in any case be voted by the Assembly until after the Fourth Committee had expressed its opinion on the advisability of the proposed expenditure from the point of view of general budgetary resources.[54] This amendment gave the Fourth Committee an important check on the freedom of action of the other committees. It frequently happens that the proposals agreed upon by these other committees

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54. Records, Third Assembly, Plenary Meetings, pp. 339-340.

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do involve an increase in League expenditures. But if they cannot secure the approval of the Fourth Committee for the increase, the chances for adoption of their proposals by the plenary body are not very good. In any case, they cannot present the proposals in the plenary session without having first submitted them to the Fourth Committee. It would seem, in view of the fact that every delegation is supposed to have unified instructions from its Government, and of the further fact that every delegation has the right to be represented in every committee, that there could be no disagreement between the various committees. Theoretically, the various members of a delegation representing the same Government in different committees should vote alike on all proposals which come before them. That this is not actually the case shows that the delegates take on the character of real representatives in some respects at least, and that their instructions do not cover in detail all the activities of the Assembly. The best illustration of disagreement between members of the same delegation is in the case of the Fourth Committee on the one hand, and another committee on the other. In the former, economy is the aim of all the delegates; in the latter, further advancement and expansion of the League activities in its field are sought after with enthusiasm. As a result, the Fourth Committee has not infrequently scaled down, or vetoed entirely, proposals for increased expenditure made by other committees. Clearly, the Fourth Committee has come to occupy a predominant position among the six regular committees of the Assembly.

Finally, before we turn from committee procedure, there is the question of the permanence and continuity of the Assembly

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committees. Again, all the developments in this connection have been to the advantage of the Fourth Committee. The transfer of appointive power over the Supervisory Commission from the Council to the Assembly has worked out in such a way as to make the Supervisory Commission a sort of sub-committee of the Fourth Committee. The first year after the Assembly had acquired control over the appointment of the supervisory Commission, it entrusted the task of making nominations to its General Committee. This method was soon found to be unsatisfactory, chiefly because the Great Powers were represented in the General Committee just as adequately as they had been in the Council. So, in 1931 the power to make nominations for election to the Supervisory Commission was handed over to the Fourth Committee.[55] Since the nominations made by the Fourth Committee are invariably approved by the plenary Assembly, the effect is to make the Supervisory Commission a sort of permanent sub-committee of the Fourth Committee, working for it, under its direction, and responsible to it. Put in another way, this means that the Fourth Committee has become a permanently continuous body. Its work at the session of any one year takes up where the Fourth Committee of the previous session left off, the Supervisory Commission constituting the connecting link; and as a consequence, the effectiveness and the efficiency of the Fourth Committee in the handling of its agenda is rendered much more complete.

Of course, there is a certain degree of continuity exhibited in the other Assembly committees, which operates

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55. Official Journal, S.S. 83, p. 43.

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through their connection, explained previously, with permanent technical League officials. This connection, however, is not nearly so intimate as that between the Fourth Committee and the Supervisory Commission, nor is the control of the other committees over these permanent officials nearly so complete as is that of the Fourth Committee over the Supervisory Commission. The natural result is that they do not show the same continuity in the handling of their agenda, nor the same regularity of procedure, as is displayed in the Fourth Committee.

Having now seen how items of ordinary business are handled in the committees of the Assembly, our attention turns to their progress in the plenary body, after they have emerged from the committee stage of development. First of all, account must be taken of the function of the General Committee in coordinating the work of the committees, and in working out the order of the day for the plenary sessions. For approximately a week to ten days after the general debate has been concluded, the Assembly holds no plenary sessions, having nothing to do. It must wait until the committees are in a position to provide something. The General Committee, however, meets frequently during this period, to examine the progress being made by the committees on the different items, and to arrange for their further progress in such a way that the plenary sessions can be resumed as early as possible, and steadily continued thereafter with enough business emerging from the committees day by day to keep the plenary sessions occupied. The Chairmen of the six regular committees, it is to be remembered, are ex officio members of the General Committee, and it is through them that the

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latter keeps informed of the progress being made in the committees, and that it communicates its decisions and recommendations to the committees. As soon as sufficient work has been completed in the committees, the General Committee has the President reconvene the plenary sessions, and thereafter it arranges the order of the day for each session, seeing to it also that the committees continue to progress rapidly enough to provide work every day for the plenary body, until all the business of the session has been finished. Thus the steering and coordinating work of the General Committee is very important to the efficiency and smoothness with which both committees and plenary sessions carry out their work.

A wise provision of the Rules of Procedure is the following: "As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Assembly unless copies of it have been circulated to all the Representatives not later than the day preceding the meeting."[56] This rule, properly observed, gives all the delegates an opportunity to study and examine the proposals emerging from the committees before they are brought up in the Assembly. Thus, each delegation can reach a decision on the items beforehand, and the time of the session itself does not have to be wasted in explanations and arguments as to the nature and value of any particular item.

In another respect, this rule operates to save the time of the Assembly. Whenever consideration is opened on a new item in the order of the day as fixed by the General Committee,

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56. See Rules of Procedure, Rule 17.

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the President of the Assembly asks the Chairman of the committee concerned and the Rapporteur appointed by the committee for this particular item, to mount the speaker's platform. The Rapporteur thereupon opens the discussion with an address to the Assembly concerning the item. Strictly speaking, his function is to read the report of his committee, ending with the draft resolutions proposed by the committee for adoption by the plenary body. But, as a result of the requirement that the reports be circulated to all delegates a day previous, the Rapporteurs almost always dispense with a reading of the report, and thus save considerable time. In place of the report, they usually give very brief explanations of the proposals being made by the committees, and then read the draft resolutions or recommendations, if there are any.

The Rapporteur having concluded his introductory remarks, the President opens discussion on the item under consideration. The Rules of Procedure regulate the discussion in a quite detailed manner. Rule 8 defines the functions of the President; he announces the opening, suspension, and adjournment of the meetings of the Assembly, directs its work, ensures the observance of the Rules, accords the right to address the Assembly, declares debates to be closed, puts questions to the vote, and announces the results of voting. Rule 9 provides for the Secretariat of the Assembly, and gives to the Secretary-General or one of his deputies the right at any time, on the invitation of the President, to bring before the Assembly reports concerning any question which is being considered by that body, or to make verbal communications to it on any question under consideration. Rule 15 deals more directly with procedure in debate. It specifies that

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no Representative may address the Assembly without having previously obtained the permission of the President; that speakers shall be called upon in the order in which they have signified their desire to speak, but that the Chairman and Rapporteur of a committee may be accorded precedence for the purpose of defending or explaining the conclusions arrived at by their committees. The same principle is made applicable to any member of the Council. The Rule further empowers the President to call a speaker to order if his remarks should be irrelevant to the subject under discussion, and even to direct him ro resume his seat if such drastic action becomes necessary. It also specifies that, when a motion is under discussion, a Representative may rise to a point of order, and such point of order must be immediately decided by the President in accordance with the Rules of Procedure. Finally, it prescribes that the Assembly may limit the time allowed to each speaker. Rule 18 deals with adjournment and closure of debate on an item. It declares the right of any Representative during the discussion of any question, to move the previous question or the adjournment of the debate. Any such motion shall have priority in debate, and in addition to the proposer of the motion, two Representatives may speak in favor of, and two against, the motion. Furthermore, a Representative may at any time move the closure of debate, whether or not any other Representative has signified his wish to speak; but if application is made for permission to speak against the closure, it must be accorded to not more than two speakers. The President must take the sense of the Assembly on the motion for closure, and if the vote decides for it, he must declare the debate closed.

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In practice, however, these detailed regulations are rarely necessary, because there is so little debate in the Assembly. The proposals of the committees, unless they are of a very controversial character, are nearly always adopted by the Assembly without discussion. A typical example is the following. At the 14th meeting of the Assembly, on September 25th, 1931, lasting from 10:00 a.m. to 12:45 p.m., the following items were dealt with, and completed:

1. Report and Resolution of the First Committee on the Appointment of a Special Committee to Study the Existing System of Elections to the Council.
2. Report and Resolution of the First Committee on the Amendment of the Covenant of the League of Nations in order to bring it into Harmony with the Pact of Paris.
3. Report and Resolution of the Sixth Committee on Slavery.
4. Report and Resolution of the First Committee on the Preparatory Procedure to be Followed in the Case of General Conventions to be negotiated under the Auspices of the League of Nations.
5. Resolutions proposed by the First Committee on theProgressive Codification of International Law.
6. Report and Resolution of the First Committee on the Proposal of the Government of Finland to confer on the Permanent Court of International Justice Jurisdiction as a Tribunal of Appeal in respect of Arbitral Tribunals established by States.
7. Report and Resolution of the First Committee on the Situation as regards the Entry into Force of the Protocol of September 14th, 1929, concerning the Revision of the Statute of the Permanent Court of International Justice.
8. Report and Resolutions of the Sixth Committee on Russian, Armenian, Assyrian, Assyro-Chaldean and Turkish Refugees.

On seven of these items, after the Rapporteur had made his explanations, the President merely went through the formality of saying: "As no one else wishes to speak, I shall consider the draft resolution proposed by the Committee as adopted." On the eighth item, there was one speaker in addition to the Rapporteur, and his statement was brief and laudatory.[57] During the entire

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57. Official Journal, S.S. 93, pp. 126-140.

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session of 1931, 23 out of 30 reports and resolutions proposed by the committees were adopted with no discussion other than the explanatory statements of the Rapporteurs, and on the other items, there were in no case more than four delegates who participated in the discussion.[58] This extreme haste exhibited by the Assembly in approving the proposals made by its committees would seem to indicate that the Assembly itself does not regard its work as of any great consequence; that it is merely going through a formality in placing its stamp of approval on the work of the committees. Undoubtedly, these indications are to some extent true, but they by no means give a complete explanation of the situation. The thoroughness and efficiency with which the committees do their work is an important factor in enabling the Assembly to approve their proposals with little further discussion. The committees rarely bring their examination of a question to a conclusion until they are sure of the agreement of all delegations on it, or at least of their willingness not to oppose it actively. Besides, it is to be noted that every Member of the League has the power to oppose a proposal in the committees, so it would hardly be "playing the game" to allow proposals to go through the committee without opposing them, and then raise obstructions in the plenary session. And, as the Member States are generally willing to "play the game", it can be taken for granted that measures which get through a committee without unbending opposition will get through the plenary session in the same way.

On only one occasion has the plenary body found it

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58. Official Journal, S.S. 93, (Plenary Meetings, 12th Assembly.)

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necessary to refer an item back to a committee; and even then, the cause was the failure of the committee to realize that the opposition of certain members was a determined opposition. In the 1927 Session, the First Committee proposed a supplementary credit for the Committee of Experts for the Progressive Codification of International Law. In accordance with the Rules of Procedure, this proposed credit went to the Fourth Committee, which decided by a vote of 16 to 12 against granting it. Because it was the usual practice for the minority to yield in matters of this sort, nothing more was done about the credit in question. Then, when the budget came up for consideration in the plenary session, the Swedish delegation refused to accept the estimates unless the proposed credit were included. A vote being taken separately on the proposed credit, it failed to receive unanimous support, so after some discussion, it was decided to refer the question back to the Fourth Committee. That body, after long and exhaustive debate, decided to maintain its original position, but with the concession that if the amount it favored should prove insufficient, the Council could provide the required margin by means of a transfer from other items of the same chapter of the budget. This concession was sufficient to satisfy the Swedish delegation, and the difficulty was solved.[59]

The measures adopted by the Assembly are either recommendations or resolutions. The line of distinction between the two is not very clear. The Assembly itself defines as recommendations those proposals which have no binding force on the Members

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59. Official Journal, S.S. 54, pp. 194-211 (Plenary Session) and
" " S.S. 58, pp. 61-66 (Fourth Committee)

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of the League, and which therefore can be adopted by a mere majority vote; resolutions, on the other hand, inasmuch as the Member Governments are bound in good faith by the vote of their respective delegations, require a unanimous vote of those present for adoption. So far as actual wording is concerned, the only real difference between recommendations and resolutions is that the former use the work"recommend", whereas the latter use such words as "approve", "confirm", "urge", "decide", "request" and the like. Sometimes, the words used in a resolutions are weaker than the term "recommend". It seems, therefore, that the distinction between recommendations and resolutions is more than anything else a mere device created by the Assembly itself to ensure that even measures capable of securing only majority approval will be brought to the attention of all the Member Governments and of the public at large. Besides, the contention that resolutions are binding on the Member Governments whereas recommendations are not, seems rather artificial. Strictly speaking, the resolutions of the Assembly have only moral force, in relation to the Member States, the convincing reason being that the Assembly has no power nor means of compulsion to enforce them. This is true even of Assembly resolutions in regard to contributions to the League exchequer. Ultimately, then, the most that can be said is that resolutions have greater <u>moral</u> binding power than recommendations, but the distinction is a matter of degree, not of kind.

The following are officially listed as "voeux", or recommendations, in the volume of "Resolutions and Recommendations adopted by the Assembly in the course of its 12th Session":

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"The Assembly recommends
(1) That, in relation with the further work in connection with the codification of international law, the international and national scientific institutions should collaborate in the work undertaken by the League of Nations.
(2) That the work of codification undertaken by the League of Nations should be carried on in concert with that of the international conferences of the American States."

"The Assembly approves the step taken by the Committee on Intellectual Cooperation in asking the Institute on Intellectual Cooperation to undertake an enquiry, in cooperation with the other competent organizations, into the educational aspects of broadcasting, and recommends that this enquiry should cover all the international questions raised by the use of broadcasting in regard to good international relations." 60

As to resolutions, they may be subdivided, either according to the strength of their wording, or according to their purpose. The two bases of subdivision generally run together; that is, if the resolution is aimed at the Member States, or certain ones among them, it is worded very mildly; if on the other hand its purpose is to secure action on the part of one of the other League organs, it is worded in a much stronger manner; and if, finally, it has to do with a subject over which the control of the Assembly is complete, such as internal organization, its wording is not essentially different from that of the laws which emerge from national legislatures.

An example of a very weak Assembly resolution is that adopted by the 1931 session on the subject of mandates, a field in which the power of the Assembly is considerably limited: 61

"The Assembly, having taken note of the work accomplished by the Mandatory Powers, the Permanent Mandates Commission and the Council in regard to the execution of Article 22 of the Covenant:

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60. Official Journal, S.S. 92, p. 10 and p. 37.

61. Ibid., pp. 35-36.

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(a) Renews the expression of confidence in them voted by the past sessions of the Assembly and again congratulates them on what has been achieved through cooperation between them;
(b) Expresses its gratification at the constructive and particularly useful work which the Council has just performed with the help of the Permanent Mandates Commission in determining the criterion to be applied when it is proposed to bring to an end the mandate regime in respect of a country placed under that regime;
(c) Specially notes in the Council's resolution on this question the importance attached to the maintenance of the principle of economic equality and to guarantees for the effective protection of racial, linguistic and religious minorities;
(d) Expresses the hope, as in previous years, that through the prosecution of the joint efforts of the Mandatory Powers, the Council and the Permanent Mandates Commission, the mandatory system may continue to ensure the achievement of the ideal of civilization proclaimed in Article 22 of the Covenant!

A good illustration of the moderately strong type of Assembly resolution is found in that adopted in 1931, dealing with the amendment of the Covenant in order to bring it into harmony with the Pact of Paris:[62]

"The Assembly, taking note of the report approved by the First Committee:
Reaffirms its intention of continuing the task of inserting in the Covenant of the League of Nations a general prohibition of recourse to war and the principle that the settlement of international disputes may only be sought by pacific methods:
Decides to create a Committee consisting of representatines of all the Members of the League of Nations, which may meet during the Conference for the Reduction of Armaments for the purpose of seeking unanimous agreement on the bases indicated in the report and of drawing up a final text which may be voted by the Assembly at its next session;
Requests the Council to convene the Committee for the date which it considers appropriate;
Requests the Secretary-General to transmit the present resolutions and the report to the Members of the League of Nations, in order that, if they consider it necessary, they may send to the Council their views as to the lines on which they think agreement could be attained."

Finally, an instance of the strongest type of Assembly resolution, not essentially different from national legislation,

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62. Official Journal, S.S. 92, p. 9.

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is the following, dealing with the adoption of the budget, and other financial questions, in which Assembly power is complete:[63]

> "1. The Assembly, in virtue of Article 38 of the Regulations for the Financial Administration of the League of Nations, finally passes the audited accounts of the League of Nations for the twelfth financial period ending December 31, 1930.
> 2. The Assembly, in virtue of Article 17 of the Regulations for the Financial Administration of the League of Nations, passes, for the financial period 1932 the general budget of the League of Nations, -- of the Secretariat and Special Organizations of the League, of the International Labor Organization and of the Permanent Court of International Justice -- amounting, including supplementary credits, to the total sum of 33,687,994 gold francs, including 3,500,000 francs for the International Disarmament Conference; and decides that the aforesaid budget shall be published in the Official Journal.....
> 5. The Assembly appoints as members of the Supervisory Commission for the period ending on December 31st, 1934, Lord Meston of Agra and Mr. C.J. Hambro.....
> 6. The Assembly decides that the contribution of the League of Nations to the Pensions Fund for 1932 shall be 9% of the salaries subject to deduction as defined in the Staff Pensions Regulations."

It becomes clear, then, from these typical illustrations, that the resolutions of the Assembly run all the way from mere pious expressions, differing in no essential respects from its so-called recommendations, to measures which might be expected to emerge from a truly legislative body, measures which have all the characteristics of real laws.

The methods for voting in the plenary Assembly are prescribed in the Rules of Procedure. Rule 20 provides that: "The Assembly shall vote by 'Appel Nominal', except when the Members of the League represented at the meeting agree that the method of voting shall be by Heads of Delegations rising in their seats, and except in the cases provided for in Rule 21. (Rule 21 deals with decisions relating to individuals, either

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63. Official Journal, S.S. 92, pp. 28-29.

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one or several.) Appel Nominal shall be taken according to either of the following methods: (a) the name of each Delegation shall be called, and one of its members shall reply Yes, No or Not Voting. The result of the vote shall be recorded and announced to the Assembly. (b) The Delegation of each Member of the League represented at the meeting shall be provided with two voting tickets, on which the name of the country in written, one red, and one blue, the former being Aye, the latter No. The voting tickets shall be deposited in an urn placed near the President's platform. When all the votes have been collected, the President shall declare the ballot closed, and the General Committee shall proceed to count the votes. The individual votes shall be communicated to the Assembly, and the result shall be announced by the President."[64] These formal methods of taking the vote are used in the Assembly only when there is disagreement on a particular measure, or when the measure is of so important a character that the solemnity of a formal vote seems desirable, for example, when the Assembly approves such a convention as the Protocol of the Statute of the Permanent Court. The usual procedure is, as has earlier been indicated, for the President to say: "As no one else has asked to speak, I shall consider the resolution submitted by the Committee as adopted." This is fully satisfactory. Where there is no disagreement, there is no need to waste valuable time by going through the process of taking a formal vote.

Rule 22 lays down the procedure to be followed in case

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64. See Rules of Procedure, Rule 20 and amendments.

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of equality in any voting in which a majority is required. A second vote must be taken in the course of the next meeting, which must be held within forty-eight hours from the date on which the first vote was taken; and it must be expressly mentioned on the agenda that the second vote is to be taken on the matter in question. Unless there is at this subsequent meeting a majority in favor of the proposal, it shall be considered as lost. This precaution for breaking a tie vote has up to the present never been found necessary in the plenary sessions, although it was employed at least once in committee.[65]

Rule 19 is concerned, not with the method of voting but with the requirements for an effective vote. It has already been quoted: it is the first paragraph of this rule which prescribes the general operation of the unanimity rule in the Assembly. It can be said without fear of contradiction that this rule constitutes the most serious of all the obstructions and handicaps to the real progress, effectiveness and success of the League Assembly. If it were completely operative, and required for every vote of whatever sort in the Assembly, that body would be as tragically helpless as was the Polish Diet before the partitions. Fortunately, the unanimity rule is not completely operative. There are several notable exceptions to its operation, which, as far as they go, give the Assembly at least something of the nature of a parliamentary body.

In the first place, the Covenant makes certain exceptions to the application of the unanimity rule in the Assembly.

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65. Official Journal, S.S. 58, pp. 53-55.

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For instance, new Members may be admitted to the League by a two-thirds vote (Article 1), or the non-permanent members of the Council can be elected by majority vote (Article 4). More important, Article 15, under which an international dispute may come before the Assembly, contains provisions for the taking of certain actions without unanimity being required.

Further, Article 5 of the Covenant makes the important exception which is embodied in the Assembly Rules, namely, that all matters of procedure, including the appointment of committees to investigate particular matters, may be decided by a majority of the Members of the League represented at the meeting. The Rules of Procedure make an important addition, in the provision that all decisions taken in virtue of the Rules are to be considered as matters of procedure, and that the Rules can be amended by simple majority vote of the Assembly. This addition might seem to open up the possibility that, by majority vote, the Rules of Procedure could be amended in such a way as to widen very considerably the definition of what functions may properly be included under the general heading of procedure. In other words, it might seem possible for a majority of the Assembly to declare nearly anything it desired to be a matter of procedure, on which effective action could be taken by majority vote. This possibility was not overlooked by the Assembly itself. At its very first session, in 1920, in the discussion as to whether rules for the election of the non-permanent members of the Council were matters of procedure or not, the delegate of Australia, Mr. Millen, criticized the Covenant for giving no direction as to what authority was to decide when a question was one of procedure and when it was not. Obviously, he continued, the Assem-

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bly itself was not competent to decide such an issue, for if it could, the Assembly would soon be making all questions matters of procedure, and voting on everything by a mere majority, thus basically altering the spirit of the Covenant and trespassing on State sovereignty. To this M. Schanzer of Italy replied that the Assembly could decide the question whether any particular matter was one of procedure or not, but such decision was not itself a matter of procedure, and hence required unanimous vote.[66] Apparently the contention of M. Schanzer was accepted, for no one questioned it at the time or has questioned it since. This apparent possibility for the Assembly to make everything a matter of procedure by majority vote does not exist. However, it still remains true that all questions which are clearly matters of procedure are not subject to the requirement of unanimity.

Another provision of the Rules of Procedure involves an exception to the unanimity rule. It is paragraph 5 of Rule 19, which specifies that representatives who abstain from voting shall be considered as not present. This practice of counting abstentions as absent makes it at least possible for the more progressive States to advance beyond the minimum for which completely unanimous agreement can be secured. In other words, the least progressive States are prevented to some extent from holding the others down to their own level. The dissenting States are enabled to enter a formal protest against a measure which appears too advanced (or not advanced enough, as has sometimes happened) for them, and then, by not voting, allowing

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66. Records, 1st Assembly, Plenary Meetings, pp. 428-430.

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the measure to become effective for those States which desire it; that is to say, the measure meets the technical requirement of unanimity needed to be officially adopted by the Assembly, and yet does not have even moral binding force on the abstainers. Thus the sovereignty of no State is impaired, while at the same time the unanimity rule with its hampering effects can be practically disregarded.

In a more limited field, relating to international conventions worked out under League auspices and approved by the Assembly, the practice of including in such conventions a clause that they come into force after receiving a limited number of ratifications involves an exception to the unanimity rule. For instance, the Assembly might approve and open for signature and ratification a convention which has been voted with several abstentions, and the convention would come into force after being ratified by only a certain number of Member States. In effect, this practice means that the Assembly can promote additions to the general body of conventional international law without observing the requirement of unanimity.

A further device capable of being employed to circumvent the unanimity rule is the distinction which the Assembly has made on its own initiative between resolutions and recommendations, whereby the latter require simple majority vote to be officially adopted. Practically, even the resolutions of the Assembly, except in the case of formal conventions, which still require ratification, have only a morally binding effect; and there is no reason to assume that recommendations will be much less effective. So there is nothing to prevent the Assembly,

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when unanimity seems impossible of realization, to transform a resolution into a recommendation by changing a few words, and then adopt it officially for circulation to the Member States by mere majority vote. This method of evading the unanimity rule appears to be the most effective, the most practical and the simplest available to the Assembly; and in view of the steady tendency in that body to take advantage of practical opportunities for increasing its power and effectiveness, this method can be expected to fill a larger place in the future work of the Assembly.

It must be admitted, however, that the unanimity rule, in spite of the exceptions to it which are practiced, still constitutes a most serious handicap on the effectiveness and power of the Assembly. The various devices for circumventing it are not employed as frequently as might be expected. Much more frequently, the process of compromise and concession between the various points of view represented in the Assembly is brought into play, so that unanimity can be obtained. No doubt, it is desirable to secure unanimous agreement wherever possible, but in the words of a delegate to the Fourth Assembly, it is often true that unanimity can be secured "only by taking refuge in vague formulae the indefinite nature of which leaves everyone free to reserve various interpretations for the future."[67] The innocuous character of most Assembly resolutions which have any direct connection with the Member States offers ample testimony as to the truth of this statement. Even so, however, there is little pos-

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67. Official Journal, S.S. 13, p.53.

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sibility of the elimination of the unanimity rule, so long as the equality of all States is maintained in the legal organization of the Assembly. It is obviously inconsistent with the facts to grant Siam or Luxembourg an equal power in the settling of international problems to that of Great Britain or France. As long as such equality of voting power is maintained in the Assembly, the Great Powers, with the tremendous yet legitimate interests which they have at stake, can hardly be expected to consent to the renunciation of the unanimity rule on any essential questions. To put it in other words, if the equality of States is maintained, either the unanimity rule will be maintained along with it, or the competence of the Assembly will be so severely constricted that unanimity becomes a matter of no consequence. In either case, the Assembly is left more or less helpless in the face of really serious international problems.

The fact that contributions to the League are not all alike in amount indicates a realization in some respects at least that all States are not equally important in international affairs. Radical as it may sound, an allocation of voting power in the Assembly on the same basis as the allocation of League expenses would involve no real injustice for any Member of the League. It would bring the Assembly organization into much closer conformity with the actual world situation. It would probably secure the consent of the Great Powers to the elimination of the rule of unanimity, and might at the same time make them willing to widen the competence of the Assembly, thus bringing to that body much more of the character of a really effective international legislature. Of course, such a change in the organization of the

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Assembly would necessitate fundamental alterations in the entire League organization, and the possibility of any such alterations in the near future is decidedly remote. So this method of eliminating the unanimity rule from the procedure of the Assembly will probably have to remain for some time solely in the realm of ideas. But it is still incontestable that some such change must be made, if the Assembly is to deal effectively with the very complex international problems of a very complex modern world.

5. The Follow-up Work of the Assembly.

The work of the Assembly in the promotion of international cooperation does not end with the formal adoption by that body of resolutions or recommendations. In the first place, it is stipulated in the Rules of Procedure that the resolutions adopted by the Assembly must be circulated by the Secretary-General to the Members of the League within fifteen days after the termination of the session.[68] By this provision, the Assembly resolutions are brought directly to the attention of the Member Governments. Of course, such circulation of the resolutions in no way binds the Members of the League to take any sort of action, but it may well bring about a more favorable reaction to the resolutions than would otherwise be the case.

In the second place, all the other League organs employ their greater permanence to a very considerable extent as agencies of the Assembly. Resolutions adopted by the latter body may, for instance, "request" the Secretariat to undertake and complete an

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68. See Rules of Procedure, Rule 26.

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examination of a certain question in time for a report to be made to the next session. Or they may ask one of the technical organizations to work out a questionnaire on a certain subject, for circulation among the Member Governments, to determine their various points of view on that subject. Even more directly, Assembly resolutions may request the Council or the Secretariat to exert as much moral pressure as is possible on the Member States, to secure action on other resolutions. For example, the Session of 1923 adopted a resolution dealing withcthe Traffic in Opium and Other Dangerous Drugs, one clause of which asked the Council "to repeat its request to the Governments of Albania, the Argentine, Colombia, Costa Rica, Lithuania, Paraguay, Persia, and Switzerland, to take all possible measures with a view to the prompt ratification of the Opium Convention of 1912."[69] Of course, the Council, through the Secretary-General, carried out this request; and at the following session of the Assembly it could be "noted with satisfaction" that the number of States not yet parties to the Opium Convention had been further reduced.

It is this fact, namely, that there is sure to be a "following session" of the Assembly within the brief space of one year, that constitutes the most effective feature of Assembly procedure in relation to its follow-up work. In other words, each session of the Assembly does the most important follow-up work for its predecessor, performing this function especially through its power of criticism, by means of which it can exert considerable moral pressure either on slow-moving League organs

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69. Official Journal, S.S. 13, p. 262.

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or on recalcitrant States. This too can be illustrated in the Assembly's resolutions on the Traffic in Opium and Other Dangerous Drugs. In the 1925 Session, the first after the holding of the Opium Conferences, the Assembly adopted a resolution urging all States which had not already done so to ratify or adhere to the Geneva Convention which the Conference had adopted.[70] In 1926, the Assembly resumed its urgings, with a bit more emphasis:[71]

> "The Assembly, impressed by the report of the Advisory Committee as to the gravity of the present situation in regard to the illicit traffic, and by the resolution of the Committee that it was extremely difficult to secure an effective control of the international traffic in opium and other drugs until the Geneva Convention has been brought into operation, urges on the Governments of all States Members of the League to proceed to ratify or adhere to the Geneva Convention so that, if possible, the ratifications necessary to bring that Convention into force may be deposited with the Secretariat before the end of the year."

In 1927 the Assembly called special attention to the long delay in bringing into force the Geneva Convention, and renewed its urgent appeals of 1925 and 1926.[72] As a result of this steady and continuous pressure, the 1928 Assembly could note with satisfaction that the Convention had secured enough ratifications to become operative.[73] Undoubtedly, had there been no sessions of the Assembly between 1925 and 1928, the Convention would not have come into force so soon. Experience has shown that neglect, much oftener than real opposition, is responsible for the failure of States to take the necessary action to promote international

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70. Official Journal, S.S. 33, pp. 147-148.
71. " " S.S. 44, pp. 92-93.
72. " " S.S. 54, pp. 117-121.
73. " " S.S. 64, pp. 147-148.

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cooperation. So, in its power to exert a continued moral pressure on slow-moving States, which results from the frequency of its sessions, the Assembly has a decided advantage over the "ad hoc" variety of international conference, an advantage which enables it to follow up its initiatory action, until success is finally achieved.

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CHAPTER VI. The Financial Administration of the League

Although the financial administration of the League is not exclusively a function of the Assembly, sufficient justification can be found for its inclusion in a treatise on the Assembly. In the first place, it is the subject over which Assembly control has become most complete. As has already been seen, the Assembly at its very first session claimed final control over the League budget. That claim, asserted in 1920, has been maintained ever since; furthermore, during the fourteen years of its existence, the Assembly has developed a highly efficient machinery, with a view to making its claim effective. For this reason an account of League financial administration will serve better than anything else to illustrate the position of the Assembly within the League, its connections and relations with other League organs, as well as its procedure in both committee and plenary sessions. Of course, certain reservations must be made in regard to the value of an account of League financial administration as an illustration of Assembly procedure and position within the League. Because Assembly control is so complete over finances, that subject is not wholly typical of the position of the Assembly within the League, for in its usual relations with other League organs the Assembly does not possess such final power as it does in regard to finances. Further, as indicated earlier, the procedure in the Assembly and in its Fourth Committee on financial questions is not identidal with its procedure in the handling of other items on its agenda, the differences, in the direction of greater routine methods and less adaptation

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to the harmonizing of conflicting points of view, being again due to the greater degree of control vested in the Assembly in regard to financial questions. So if we keep in mind these differences, which are differences of degree rather than of kind, an analysis of the League's financial administration will give a generally accurate illustration of the position of the Assembly within the League, and of its procedure in ordinary business.

It was the First Assembly, as already stated, which claimed for itself final financial power within the League. Sir George Foster, Rapporteur of the Fourth Committee to the 1920 Assembly, explained very accurately the decisions of his Committee: "In the first place all expenditures are to be authorized by the Assembly. The Assembly in this case holds the purse strings as the representatives of the Governments whose delegates the Assembly are. No expenditures, therefore, can be undertaken except on the authorized vote of the Assembly, or according to instructions given by the Assembly. Once the estimates are voted and instructions given by the Assembly, expenditures then become possible in the different organizations . . . . . Expenditure in each case is governed by the wording of the item itself. The item is definite as to amount and purpose for which it should be expended, and it is under these precise indications as approved by the Assembly that all expenditures have to be made, whether they be by order of the Council or the Secretary-General. All receipts and expenditures are to be subjected to annual audit..... and that audit, with its recommendations and explanations and remarks, goes to the Assembly with the accounts, and these accounts, once

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audited, are to be passed finally by the Assembly itself."[1]

In addition to adopting the general principle of final Assembly control over League financial administration, the First Assembly, on the recommendation of its Fourth Committee, assumed the right to lay down regulations for such administration. It adopted thirteen general rules, the most important of which were the following: (a) the Secretary-General was, at least three months before the annual session of the Assembly, to submit to the Council a draft General Budget; (b) the Member States should have received communications of the Budget, with detailed explanations, at least one month before the annual session; (c) the Assembly's power to adopt such supplementary estimates as might be brought before it was explicitly reserved; (d) the Budget of the Labor Organization was to be drawn up in gold francs, and to be submitted to the Secretary-General in time to be incorporated in the general draft Budget, and to be accompanied by detailed explanations; (e) no expenditure was to be permitted except on the order of the Secretary-General or one of his authorized deputies, it being clearly stated in the order for what budget period and from what appropriation item the expenditure was to be made; (f) in regard to transfers from one appropriation item to another, it was provided that such transfers could be made only on the authority of the Council, and even then notice of the transfer had to be communicated to all League Members; (g) it was recommended that the past practice of securing the services of certain Governments for auditing the accounts of a

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1. Records, First Assembly, Plenary Meetings, p. 677.

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past fiscal period be continued in the future, to insure an efficient and an independent audit. Finally, the Assembly recognized the provisional nature of these rules by requesting the Council to take the necessary steps to set up as soon as possible a small Committee of Experts to consider all factors connected with the organization, methods, efficiency, numbers, salaries and allowances of the staff, and with the general expenditure of the whole organization. But the Assembly again emphasized its own final power by reserving the right to make any changes it saw fit in the recommendations to be made by this Committee.

Accordingly, the Council appointed the Committee, which worked under the Chairmanship of M. Georges Noblemaire. Its report was submitted by the Secretary-General to the second Assembly when it convened in September, 1921. Section VIII of this report dealt with the subject of Financial Control. Briefly, it recommended the creation of a small Commission of Control, to be appointed by the Council from different States Members of the League, the Council to keep in mind the desirability of an adequate number of the members of the Commission being chosen from Members of the League other than those represented on the Council. The chief function of this Commission was to be a detailed examination of the League budget for the ensuing year, the date of its annual meeting being fixed so as to give sufficient time for its report to be circulated to the Member States as a commentary on the actual budget proposals. Thus the Members would be able to study the budget proposals in the light of the expert opinion of the Commission, and would be able to instruct their representatives accordingly at the next Assembly session.[2]

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2. Records, Second Assembly, 4th Committee Minutes, Annex 1.

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The Fourth Committee examined the Noblemaire Report, and approved practically without change the recommendations contained in it in regard to financial control. On the proposal of the Fourth Committee the Assembly adopted a resolution requesting the Council to appoint the Commission of Control, selecting its members in such a way as to insure representation to States not members of the Council. In addition, however, the Assembly assigned to the Commission to be created the delicate task of preparing definitive regulations for League financial administration. Meanwhile the general rules laid down by the First Assembly were to continue operative.[3]

In accordance with this Assembly resolution, the Council appointed five members to the body which soon became known as the Supervisory Commission, four being from States not members of the Council. By the next Assembly session in September, 1922, the Commission had ready for consideration by the Fourth Committee a draft set of financial regulations. With little change, these draft regulations were adopted by the Assembly of 1922, and with the amendments since made, constitute the framework of the League's financial administration.[4] For this reason they possess a real constitutional significance. An analysis, therefore, of their main provisions will not be inappropriate here.

Chapter One of the Financial Regulations deals with the Supervisory Commission. The original provisions were for a commission of five members, one of whom at least must be a

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3. Records, Second Assembly, Plenary Meetings, pp. 719-723.
4. Records, Third Assembly, Plenary Meetings, pp. 207-217.

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financial expert, to be appointed by the Council, which in selecting members was to include persons belonging to countries not represented on the Council. This latter provision has been very well observed in practice. In fact, the established precedent in the composition of the Supervisory Commission is that it should consist of two financial experts of outstanding reputation, one of these being a national of a Small Power, of two representatives from States without permanent seats on the Council, and of one representative from a permanent member of the Council.[5] In 1923 an amendment was made to Chapter One (Article 1), providing for the appointment of two substitutes to replace, if and when necessary, regular members unable to attend a meeting.[6] The term of office of the members of the Commission is three years, corresponding to the financial years of the League, retiring members being eligible for re-appointment. But, to establish a system of partial annual renewal, it was provided that two members should retire at the end of 1923, two more at the end of 1924, and the fifth at the end of 1925, the order of retirement to be determined by lot. For each financial year the Commission is to appoint from its members a Chairman, a Vice Chairman and a Rapporteur. The last-named official is generally responsible for the preparation of work for the Commission, before its plenary meetings, and for ensuring that decisions taken by the Commission are carried out (Article 2). Geneva is fixed as the place for ordinary meetings of the Commission, but in excep-

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5. Morley, F., op. cit., p. 519.

6. Official Journal, S.S. 17, pp. 306-307.

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tional cases the Commission may decide to meet elsewhere. The secretariat of the Commission is to consist of an official from the Secretariat of the League and one from the Labor Office (Article 3). Provision is also made for an expert and independent audit of League accounts. The Council is empowered to appoint, on the proposal of the Supervisory Commission, an auditor who must be in no way connected with any League organization, for a five year term. The auditor is removable only by the Council on the proposal of the Commission, and the reasons for removal must be stated (Article4). Finally, Chapter One prescribes the official relations between the Supervisory Commission and other League organs. The Commission must hear the competent officials upon their request; and on the other hand, they must appear before the Commission when it so requests. Also, subordinates must appear to give information upon a request to that effect being addressed by the Commission to their superiors. The Rapporteur is empowered to secure information from officials even when the Commission is not in session. In regard to the Council, the Commission must supply it with any information relating to its (the Commission's) work which the Council may require (Article 5).

An amendment of the utmost constitutional significance was made to Chapter One by the Ninth Assembly, when the Assembly was substituted for the Council as the authority with the power to appoint the Supervisory Commission.[7] Prior to 1928, the Commission, though nominally appointed by the Council, had been really selected by the higher officials of the Secretariat who,

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7. Official Journal, S.S. 64, p. 192.

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like the permanent members of the Council, were nationals of the Great Powers. The possible effects of this situation on the character of appointments to the Supervisory Commission, and hence also on the soundness and impartiality of its work, obvious as they were, were clearly seen only by certain members of the Assembly interested in promoting that body's power within the League. The energetic efforts of these members culminated in the amendment of 1928, which broke, at least in respect of financial administration, the tacit alliance between the Council and the higher officials of the Secretariat. Since 1930, the Supervisory Commission has been nominated, for appointment by the Assembly, by the Fourth Committee, which is a microcosm of the plenary body, since every Member State is entitled to have a representative on it. The result is that Assembly control over League financial administration is made practically complete. This could not be the case so long as other League organs, and especially the Secretariat, had any measure of control over the Supervisory Commission, which played a predominant part in League financial administration, due especially to its permanence and to its exclusive concentration on financial questions. So this step, taken in 1928 and completed in 1930 has, perhaps more than any other single act of the Assembly, tended to make that body the really predominant organ of the League.

Chapter Two of the Financial Regulations is entitled "Financial Administration of League Organizations". It provides, first of all, that all organizations of the League, autonomous and non-autonomous, and all temporary organizations to be created in the future under League auspices, whether their expenditure

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is or is not, in whole or in part, met out of the votes of the Assembly, must comply with the Regulations, and with every decision of the Assembly governing financial and budgetary administration (Article 6). A more complete assertion of final control within the League cannot be imagined, involving as it does not merely integral League organs, but also every other organization having any sort of legal connection with the League. Further, by thus asserting its final financial power, the Assembly asserts the power to influence policy which always belongs potentially to the body possessing control over the purse. Secondly, Chapter Two prescribes that the financial administration of the autonomous organizations is to be independent of that of the Secretariat, subject always to the Regulations; that the financial administration of the non-autonomous organizations is to be an integral part of that of the Secretariat; that the Secretary-General, acting in consultation with the Advisory Committee of the Organization (if any) shall be responsible for estimating the financial requirements of such non-autonomous organization, and for submitting such estimates; and that he shall also be responsible for the expenditure of all funds voted for these organizations, and for the appropriation of such expenditures to the proper items of the Budget (Article 7).

The third chapter, comprising Articles 8 to 14, prescribes the rules to be followed in drawing up the Budget. The financial year of the League is made the calendar year, and estimates of expenditure are to be made for one year only. Thus the need for annual Assembly sessions is ensured. The estimates are to be drawn up in separate Parts, one for the Secretariat, one for each autonomous organization, and one for the Working

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Capital Fund. Each Part is to be subdivided into two Sections, one for ordinary expenditure and one for capital expenditure. Then each Section is to be subdivided into Chapters, corresponding to the various services or categories of expenditure. In each Chapter there is to be a full statement of items, showing for each item, in addition to the sum asked for, the sum voted in the current year, and the sum voted and actually expended in the preceding year. Important differences in amounts estimated during successive years must be fully explained by means of notes. These detailed regulations illustrate very clearly with what care and efficiency the Assembly has ensured adequate information for itself in the consideration of the League Budget. As for modifications proposed after the Budget has been circulated to the Member States, they must, so far as possible, be included in one document. A Supplementary Budget may be submitted to the Assembly by its Finance Committee, i.e., by the Fourth Committee.

Chapter Four deals with the adoption of the Budget. Article 15 gives to the Secretary-General the responsibility of arranging for the Budget and Annexes to be submitted to the Supervisory Commission before May 1st of each year. To enable him to carry out this duty the competent officials of the autonomous organizations must supply him with the data required on or before a date to be agreed between them. Article 16, with its several amendments, is one of the most important of all the Financial Regulations. For this reason it is desirable to quote it, with the additions made, literally.

Article 16 (as originally adopted):

1. The Commission shall annually examine the Budget and prepare a report thereon in time for both documents to be sent to the Council and to the Members of the League three months

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before the regular session of the Assembly.

2. The observations of the Council on the Budget and on the report of the Commission shall be sent to the Members of the League in time for them to be received at least one month before the regular annual session of the Assembly.
3. When the Commission is considering their respective budgets, the autonomous organizations shall be represented before the Commission in such manner as they may decide and the Commission approve. A non-autonomous organization shall be represented by the Secretary-General, assisted by one of the officials responsible for its work, and if so requested, by a member of the Advisory Committee.
4. The Commission may not amend the Budget as presented to it, but may propose modifications. The Commission will discuss such modifications (if any) with the competent official or authority, and will report its conclusions to the Council and the Assembly.

5. (added by vote of Assembly of 1930)-Proposed credits which in the opinion of the Supervisory Commission require special examination by the Assembly may form the object of special reports by the Commission which shall be dealt with according to Article 16c below. If the credit forms part of the budget of an autonomous organization, the special report shall be communicated to the competent authority of the organization.

Added by vote of Assemblies of 1928 and 1930:

Article 16a.

1. A proposal for expenditure on a purpose for which provision is not made in the Budget as communicated to the Members of the League must be placed in the hands of the Secretary-General at least one month before the date fixed for the opening of the Assembly. The Secretary-General or the competent official of the autonomous organization concerned shall draw up as accurate an estimate as possible of the amount of expenditure involved. If the proposal is received later than one month before the date fixed for the opening of the Assembly, it shall be adjourned until the next session, unless by special vote by two-thirds majority the Assembly or its Fourth Committee decides otherwise.
2. The Secretary-General shall incorporate the estimates referred to in Paragraph 1, and the estimates for any increase in the Budget of the Secretariat which he himself considers necessary, in a single Supplementary Budget, which shall be circulated to the Members of the League and to the Supervisory Commission at least two weeks before the opening of the Assembly.

Article 16b.

A session of the Supervisory Commission shall be held each year during the session of the Assembly.

Article 16c.

1. Proposed credits on which a special report has been made by the Supervisory Commission under Article 16, Paragraph 5, and

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the various estimates included in the Supplementary Budget, shall be dealt with by the following procedure: (a) where the consideration of objects for which the proposed credit is required is referred by the Assembly to a Committee other than the Finance Committee, all relevant documents shall be placed before such Committee which, in so far as it reports in favor of the said objects, shall examine the estimate of expenditure, and if necessary modify it to correspond to the recommendations which it makes. The Committee's report, if it recommends a credit, shall be passed directly to the Supervisory Commission for verification of the proposed expenditure, and then be submitted to the Finance Committee with a report by the Supervisory Commission. The report of the Committee concerned must, however, be received by the Supervisory Commission within fifteen days from the opening of the Assembly. If received later, examination of the credit shall be adjourned to the next session of the Assembly unless the Finance Committee by a two-thirds majority shall resolve otherwise, in which case the credit shall be referred to the Supervisory Commission for examination and report at the earliest possible moment. (b) In other cases, the proposed credits shall be referred to the Finance Committee with the observations of the Supervisory Commission.

2. The Rules contained in Paragraph 1(a) above shall also apply in all cases where (a) a proposal for expenditure for a purpose not provided in the Budget or the Supplementary Budget is referred by the Assembly to one of its Committees other than the Finance Committee, and (b) a Committee other than the Finance Committee of its own motion adopts proposals capable of involving an increase in the Budget.

Article 16d:

The decision of the Finance Committee shall be reconsidered if a request to that effect is formulated by one fourth of the members of the Finance Committee or byt the competent officials of the organization affected, or by a vote of another Committee of the Assembly affected thereby. Such reconsideration shall not take place until after an interval of at least twenty-four hours from the time when the request was made or communicated to the Finance Committee.

Article 16e:

Subject to the above provisions, the Budget and the Supplementary Budget shall be referred to the Finance Committee, which shall place them before the Assembly in the form approved by it, preferably in a single document.

The purpose of these several additions to the original procedure for the adoption of the budget is generally apparent from their contents. The original provisions were not sufficiently adequate in these respects, and the amendments were the result. Article 16a was added to prevent the possibility

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of the Assembly being in the position of having to vote on credits proposed too late to be given adequate examination and preparation. This had happened several times before the addition to the Financial Regulations was made.[8] Article 16b was added to legalize a practice which had proved necessary from the beginning. The expert advice and assistance of the Supervisory Commission has become an important advantage to the Fourth Committee in performing its functions. Article 16c was provided to centralize financial control, and to prevent the Assembly from being stampeded into voting additional credits by one of its enthusiastic committees. In other words, the position of the Fourth Committee in regard to finances was made finally exclusive. Of course, this was in the interests not only of efficiency but of economy as well; and economy has been the battle cry in the Fourth Committee throughout the entire existence of the League. Article 16d is, however, calculated to make the control of the Fourth Committee less complete and final. It opens up the possibility of conference and compromise between the Fourth and the other Committees, so that the latter may be fairly certain of at least a partial satisfaction of their requests. Article 16e again asserts the dominant role of the Fourth Committee in budgetary procedure, even in relation to its parent body, for this article implies that the latter may not consider the budgetary estimates until the Fourth Committee has voiced its opinion.

Article 17 of the original Regulations was cancelled in 1930, when most of the above additions to Article 16 were

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8. See, for example, Official Journal, S.S. 58, pp. 44-53.

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made. It provided that the Assembly could not consider the Budget in plenary session until its Finance Committee had considered it and presented a report on it, but that the plenary body could make any amendments in the Budget which it deemed desirable. Article 18, unchanged to date, declares the right of the various other League organs to be present in both the Fourth Committee and the Assembly when the credits for their organizations are under discussion. It is laid down that "such representative or representatives may be heard, but shall not address the meeting except on the invitation of the presiding officer." It is on the authority of this rule that the Secretary-General, the Director of the Labor Office and the Registrar of the Permanent Court take such a large part in the deliberations of the Fourth Committee, explaining and defending the items in their budgets on which there is disagreement. Article 19 repeats the safeguards of Rule 14 of the Assembly Rules of Procedure, in regard to proposals for increased credits by a Committee other than the Fourth Committee. All in all, it seems safe to conclude from these carefully drawn and detailed regulations for adoption of the Budget that the financial control of the Assembly is a very real and a very effective control, more real and more effective, no doubt, than that of many national legislatures.

It might be well at this point to turn our attention from the analysis of the Financial Regulations, to the actual practice, and to trace the progress of the Budget and other financial questions through the Assembly. Thus we can determine more surely how effective Assembly control really is, and see to what extent its financial policies are carried out. The de-

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velopments in the 1932 Assembly are both recent and typical, and will therefore serve our purpose very well.[9]

In accordance with the usual practice, the items on the agenda of the Session of 1932 which had to do with the Budget and other financial questions were referred without discussion to the Fourth Committee. The general conditions under which the debates in the latter body took place were similar to those prevailing in previous years. In other words, the members of the Fourth Committee in 1932 continued to follow the general policy which had characterized the Fourth Committee of previous years, that general policy being one of the greatest possible economy. This desire for economy was greatly heightened in 1932 by reason of the fact that the League was experiencing growing difficulty in collecting the contributions due. Embarrassment from this source would have been still more serious had not some important savings effected during 1932 procured funds for the Treasury which it would not have obtained if the 1932 budget had been strictly carried out. At any rate, the Fourth Committee of the 1932 session was different from those of previous years only in the degree of its determination to economize.

After the Committee had adopted unanimously and without discussion the audited accounts for 1931, the debate was opened on the report of the Supervisory Commission on its work during the past year. This debate, which continued through six meetings, served also to give the delegates an opportunity to express their general views on the budget, so there was no separate general

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9. See Official Journal, S.S. 108 - for proceedings of Fourth Committee of 1932 Assembly.

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examination of the budget in 1932.

The Chairman of the Supervisory Commission opened the debate with a brief resumé of the report of the Commission, recalling the circumstances in which the Council had referred to the Commission for examination three special questions: (1) the salaries of staff officials; (2) reforms calculated to increase the efficiency of League organization; and (3) the control of expenditure and the limitation of budgets. The Supervisory Commission had deemed itself not competent to make any decisions on these questions, so merely had the Secretary-General prepare its report, and now referred the questions to the Fourth Committee for decision, without making any definite recommendations.

On the first question, that of salaries of officials, the Committee was divided. Certain delegates wanted savings in salaries rather than curtailment of the work of the League. They considered the existing salary scale too high, since the cost of living had fallen, and the security of the officials had at the same time been increased by the Pensions Fund, set up by vote of the Assembly several years before. Other delegates, however, claimed that living costs were high in Geneva, that reductions in salary would take the best men away from the League, that conditions should be such as to discourage these men from seeking a career in their own countries, and that the disadvantages of expatriation must be compensated. The Chairman of the Supervisory Commission explained why that body generally opposed reductions at that time. It felt its duty was to resist precipitate action by the Assembly, and to watch out especially for the permanent interests of the League. It was of the opinion that

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the Assembly should be careful not to impair the feeling of security and stability then existing among League officials, and hence that the salaries of present officials should not be touched. But it approved the idea that the Fourth Committee should address a unanimous appeal to the officials, inviting them to accept voluntary reductions. This suggestion, however, did not meet with the approval of the Fourth Committee, thus indicating that that body felt quite free to override the Supervisory Commission. Finally, the debate boiled down to the question of whether or not the Assembly had the power to modify unilaterally the existing salary contracts. To answer the question, the First Committee was called in; its Chairman was invited to ask the legal opinion of a small committee of jurists on the matter. A few meetings later, the jurists reported that the Assembly did not have the power, unless it was expressly recognized in the contracts of appointment. Since this was not the case, the Fourth Committee decided to leave the salaries of present officials untouched, but to adopt as a principle that the scales of salaries in the future should be reduced, and that in all contracts to be drawn up the right of the Assembly to reduce salaries should be expressly recognized. But it was specified that these provisions were not to apply to anyone receiving less than 6500 francs per year.

On the second question, that of reforms calculated to increase the efficiency of League organization, practically all delegates favored rationalization of the Secretariat services and concentration of its activities. But the debate showed that it would be hard to reach agreement as to the precise activities which should be curtailed. This was typical of the debates in

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the Fourth Committee. The delegates have continually been clamoring for economy, but can never reach agreement as to practical ways and means of making the economies, the reason being that all League activities are so essential and so valuable to all the Member States. At any rate, the result of the debate on this question was the adoption of a vague resolution requesting the Supervisory Commission to make a detailed study of the possibilities for economy by concentration and reorganization, but in such a way as not to hamper the essential activities of the League. The Commission was to report to the next Assembly. Also, the Secretary-General was requested, whenever a post became vacant, to give serious consideration to the possibility of leaving it vacant.

In regard to the third question, that of supervision of expenditure and the limitation of budgets, the members of the Fourth Committee agreed with the Supervisory Commission that the existing system was practically perfect. The latter body, in its report, suggested only one change, an addition to Article 7 of the Financial Regulations, providing that the adoption by the Assembly or the Council of a report of an advisory committee containing proposals which might directly or indirectly involve expenditure, either immediately or in the future, should not be made ground for asking for a credit, unless the report contained as an annex to its text an estimate of the expenditure involved. This additional clause, according to the Supervisory Commission, filled the last possible gap in the existing system which it was desirable to fill. Without much discussion, the Fourth Committee approved this amendment to the Financial Regulations.

Discussion on these points having been concluded, the

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Fourth Committee, in accordance with the regular practice, received a report from the Secretary-General on the financial situation of the League. Up to September 19th, only 58.83 % of the contributions due for 1932 had been paid. But Secretariat disbursements to that date had been only 47.50 % of the Budget, so there was still a cash balance on hand. Many savings were being made, especially in connection with the Disarmament Conference. The Secretary-General expressed his hope that at the end of 1932 there might be a "theoretical" surplus of 4,750,000 francs. But actually, he explained, there would be a deficit, unless more Members paid in full. As was also usual, the Fourth Committee merely "took note" of this report by the Secretary-General. The report indicates the extreme difficulty which the League experiences in regard to the collection of funds, and the powerlessness of the Assembly or any other League organ to compel payment of the contributions due from the Member States.

Next, the Fourth Committee turned to the all-important subject of the budget for 1933. As the delegates had expressed their general views during the previous discussion, no further general discussion preceded the examination of the budget. The Committee turned immediately to detailed examination, chapter by chapter, and item by item. The usual order was followed, that is, first, the budget of the Secretariat and Special Organizations of the League, second, that of the Labor Organization, third, that of the Permanent Court, fourth, that of the Staff Pensions Fund, to which the League as a whole contributed, fifth, that of new League Buildings, and then one or two minor temporary subdivisions. In each of these chapters, the Fourth Commit-

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tee reduced many items, even further than had been recommended by the Supervisory Commission. The budget, it is to be rememe bered, is drawn up by the Secretary-General, and then submitted to the Supervisory Commission. The latter may not make any alterations itself, but may recommend alterations to be made by the Fourth Committee. In 1932, the latter body demonstrated that its financial power was both real and effective, by freely overriding the recommendations of the Supervisory Commission, and reducing the total budget very considerably in the interests of economy. The final budget, including supplementary credits, which had been considered according to the method laid down in the Financial Regulations, totalled 33,429,132 gold francs, subdivided as follows:

Secretariat and Special Organizations of League	- 17,322,549	frs.
International Labor Organization	- 8,851,972	"
Permanent Court of International Justice	- 2,660,196	"
Staff Pensions Fund	- 1,829,906	"
New Buildings	- 2, 034, 659	"
Nansen International Office for Refugees	- 297,763	"
Advances Account	- 432,177	"

Next, after approving the reports of the Supervisory Commission, the Fourth Committee turned to "Miscellaneous Questions", of which there were four in 1932. First, the view was expressed that the discussions of the budget could be considerably curtailed, if in future Governments would inform the Secretary-General before the opening of the Assembly of the points they wanted explained, it being understood that the Secretary-General would reply in writing. The Committee came to no decision, but called the question to the attention of the Governments and the Supervisory Commission. Second, on the proposal of the Secretary-General, the question of the emoluments of Chiefs of

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Section, assimilated officials and consellors, and that of septennial leaves for upper officials, were adjourned. Third, the number of units for Turkey and Iraq, newly admitted Members of the League, to contribute to League expenses was fixed, on the recommendation of the Committee on Allocation of Expenses. Turkey was to contribute 10 units, and Iraq 3 units. Fourth, one delegate proposed to ask the Committee on Allocation to find a new basis for allocation of expenses, but no action was taken.

Finally, the Fourth Committee approved the report of its private Sub-Committee on Contributions in Arrears, which as usual merely asked the Secretary-General to do all possible to reduce the amount of arrears; nominated, after secret ballot, three men to be elected by the Assembly to the Supervisory Commission, and ended its labors with discussion and adoption of the report to the plenary Assembly. This report, according to the usual practice, was drawn up by the Rapporteur appointed early in the committee session, and embodied all the essential points of the discussions and decisions which had taken place in the Fourth Committee.

Very soon after the Fourth Committee had completed its work, the item "Financial Questions" appeared on the order of the day of the plenary Assembly. The Rapporteur, M. Rappard of Switzerland, followed the usual practice by giving merely a brief explanatory statement of the work of his committee, instead of reading the report, which had already been circulated among the delegates. This done, only one delegate spoke, and he merely referred to the "serious financial position of the League, and the consequent need for curtailment." Then the vote was taken.

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and the Assembly formally and unanimously placed its approval on the actions taken and the decisions made by its Fourth Committee in regard to financial questions, and the Budget for 1933 was passed by the body possessing final financial power.

Let us now return to our analysis of the Financial Regulations. Chapter Five is concerned with the collection of funds, and although it has no direct bearing either on the position of the Assembly within the League or on Assembly procedure, it does give a very good illustration of the relationship between the League organs and the Member States, showing how the former, being devoid of effective power, have developed the use of moral pressure to a very fine point, being careful, however, not to carry it so far as to offend the sensibilities of the Member States. Article 21 of the Regulations prescribes that, as soon as possible after the Assembly has adopted the Budget, and the total amount voted has been apportioned among the Members of the League (in accordance with the allocation fixed by the Assembly), the Secretary-General is to transmit all relevant documents to the Members, and request them to remit their contributions as soon as possible after the beginning of the financial year for which they are due, and in any case to give notice as to when payment may be expected. If payment is not made, and the notice of anticipated date of payment not given by the first of April following, the Secretary-General must repeat the request. He must again repeat it at the end of three months and again at the end of a further three months, if such notice is still not given and if payment has not been made in the interval. If a Member State gives the notice as requested, but then makes no payment on the date agreed upon,

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the Secretary-General must follow the procedure of three-month requests indicated above. But the number and frequency of requests by the Secretary-General does not alone mean any great moral pressure. So it is further provided that at the first session of the Council held after each of the dates mentioned above, the Secretary-General must present to the Council a general statement on the general financial position and on the steps he has taken; and finally, a similar statement must be presented annually to the Assembly, which is to "take such action as it may deem proper." In other words, the names of the States in arrears become the public prpperty of all the other Members of the League, a situation most unpleasing to any such State, and one which undoubtedly they will do a great deal to prevent; and that means, the urge to make them pay is considerably more forceful than would otherwise be the case, even though the League has no legal power to compel payment. The effectiveness of this method, the only one available to the League, is demonstrated in the very small percentage (less than 3 %)of contributions in arrears. No doubt, the percentage would be still further decreased if the Assembly would use its power of giving even greater publicity to the contributions in arrears, but such a policy would probably increase the resentment of the States concerned to the danger point of withdrawal from the League. Besides, by enforcing the unanimity rule, the few States in arrears can effectively prevent any such step. So for some time to come, no greater pressure is likely then is used at present.

Chapter Six of the Regulations deals with the appropriation of funds. It is first declared that the adoption of

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the Budget by the Assembly constitutes authorization to the competent officials or authorities to incur expenditure during the year to which the Budget relates, for the purposes for which money has been voted in the Budget, and only up to the amounts so voted (Article 24). This declaration is a further assertion of final Assembly control over the purse, for it implies that the Assembly vote is the only authorization to incur expenditures. To make sure that there shall be no expenditures in excess of the amounts authorized by the Assembly, it is provided that the competent officials shall cause all payments, as made, to be appropriated to the proper items of the Budget, and shall keep a record of such appropriations, and of liabilities incurred, showing at all times the amount available under each item (Article 25). Further, when a sum is voted in the Budget by the Assembly without specification of the precise purposes for which it is to be applied, no part of such sum can be expended until a detailed statement as to the nature and object of the expenditure has been considered and approved by the competent authority. In regard to transfers from one item to another of the same chapter of the Budget, it is prescribed that they may be effected by special resolutions of the competent authority, but that such resolutions must be immediately communicated to all Members of the League, and to the Assembly at its next session (Article 29). For the rest, this chapter provides the rules to be observed in the distribution of funds as they are paid by the Member States, to the various organs of the League, and the procedure to be followed in cases where the contributions of the Members come in too slowly or too late to meet the needs of the League organs.

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In such cases, the Secretary-General is empowered to contract loans within the limits of the Budget, but only with the approval of the Council, or if it is not in session, of the President of the Council (Article 26 and 27).

Chapter Seven has to do with the Working Capital Fund of the League. This fund is established primarily to meet temporarily the normal requirements of the regular organizations of the League, when such requirements cannot be paid out of the income at the time when they are due. Such organizations have first claim to assistance from the Fund, the assistance taking the form of advances to the competent officials of the organizations, it being understood that such advances must be repaid into the Fund as soon as the necessary income becomes available. However, recoverable advances for work undertaken by the League may also be made from the Working Capital Fund if the money is not required for the regular organizations. But such advances must be authorized by special vote of the Council, and all Member States must be kept fully informed with regard to all such votes and advances. Repayments of such advances are to be paid into the fund from which they were drawn, pending decision by the Assembly as to their final disposal. Of course, it is specifically declared that the Assembly alone is competent to decide whether in any year amounts shall be added to the Working Capital Fund, and that no additions may be made other than those authorized by the Budget.

Chapter Eight is entitled "The Accounts". The annual accounts consist of two parts, first, the Budgetary account, showing for each item the original vote, the vote as modified

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by any transfers which may have been approved by the competent authority, and the actual expenditure incurred; and secondly, a statement of assets and liabilities as at December 31st. A number of annexes must be attached to the accounts: first, a statement showing the position of the Working Capital Fund; second, a statement showing for the past financial year any recoverable advances made from the Fund, and any expenses borne on the vote for "Unforeseen Expenditures"; third, a memorandum showing for the past year the resolutions of the Council with reference to any recoverable advances made from the Working Capital Fund, any advances originally thought to be recoverable and ultimately found by the Council to be irrecoverable, and any transfers made in the Budget. The procedure described in Chapter Four, concerning the adoption of the Budget, is also made applicable to the accounts. Finally, it is declared that the Assembly shall pass finally the expenditure and income accounts, that it may disallow any item which it considers improper, and may direct a corresponding amendment of the accounts. If it disallows any item, it must at the same time decide what steps should be taken to deal with the matter. So far, however, the Assembly, or rather its Fourth Committee, has always found the accounts in order, and their adoption both in the Committee and in the plenary body has become a mere formality, which never provokes discussion.

The ninth chapter is concerned with internal control, and lays down regulations to operate within the various League organizations themselves, with a view to securing efficiency of administration. The competent officials must designate the officials who may incur liabilities and make payments, and must pre-

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scribe rules to ensure that no liabilities be incurred which are not provided for in the Budget, that no payments be made for which liability has ceased, and generally to establish a strict control enforcing observance of the Financial Regulations. In all cases where it seems desirable, and always in cases of a single purchase of supplies likely to exceed 10000 Swiss francs, tenders must be invited by advertisement in at least two leading newspapers of different countries and in various League publications. To ensure economy, it is prescribed that the competent officials must see to it that accurate records are kept of all capital acquisitions, and of all supplies purchased and used during the year, and must submit to the auditor, with their accounts, a statement showing the stores in hand at the end of each financial year. Also, rules are laid down regulating the use of League property or services for private purposes, it being prescribed that as a general arrangement such private use be prohibited, and where it is allowed, that provision be made for payment, unless there is reason to forego payment in the interests of the League.

The tenth and final chapter of the Financial Regulations, entitled "External Supervision", deals with the functions and duties of the auditor. The League accounts are to be audited after the closing of the accounts each year, and in addition three times during the course of each year, these three audits being made at such times as the Supervisory Commission may determine. The auditor must report to the Commission upon each audit, and the annual audit of the closed accounts must be completed and submitted with the auditor's report to the

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Supervisory Commission not later than April 15th of the year following. The auditor is entitled to see on demand any document relevant to his work. Not later than the 10th of each month a statement of receipts and expenditures for the preceding month must be forwarded to him by each organization. He must verify whether receipts and payments are in accordance with the Budget and the Financial Regulations. In regard to payments, he is particularly to ascertain whether any sums have been paid which were not due, and whether any double or overpayments have been made. Any question which he may raise on a point on which he is not satisfied by such verbal explanation as is given by the competent official, must be answered by the latter in writing; and if the auditor is still not satisfied, the whole question is to be turned over to the Supervisory Commission. In any event the reports of the suditor to the Supervisory Commission are examined by the Rapporteur of that body, who in turn drafts a general report on the accounts for consideration by the Commission as a whole. The report is to deal with all matters likely to be of interest concerning the financial statement of the League during the year in question. Finally, of course, the audited accounts and the reports on them are submitted to the Assembly.

In addition to the ten chapters outlined above, the Financial Regulations conclude with certain "Final Provisions". The first provides that any rules made by the competent officials to carry out the provisions of the Regulations must be submitted to the Supervisory Commission for examination as to whether they are in conformity with the Regulations. The second

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prescribes that the Regulations can be amended only by the Assembly, acting upon the advice of its Finance Committee; but where it is proved to the Supervisory Commission that some alteration or addition is urgently required, the Commission is authorized to approve and put into temporary operation such alteration or addition, but shall report thereon to the Council and the Assembly as soon as possible for final decision by the latter. Since 1928, when the Supervisory Commission became in effect a permanent committee of the Assembly, no League organ other than the Assembly has any power, even in an emergency, to amend the Financial Regulations. And it was effectively demonstrated in 1928 that the unanimity rule is not apt to operate as a deterrent to amendment by the Assembly. The amendment made in that year was undoubtedly the most important that could be made in the Regulations, and yet the opposition of several States in the Fourth Committee did not prevent the adoption of the amendment by that Committee and later by the plenary body.

From this account of both the legal regulations and the actual practice, it becomes clear that the financial power vested in the Assembly is a very real and a very complete power. In fact, it seems safe to say that Assembly control over League expenditures is even more complete than that of any national legislature over the expenditures of its Government. Just as an indication of the truth of this statement, let us see what is the position of the British House of Commons, the most powerful of all national legislatures, in regard to financial power. Mr. William B. Munro has this to say of the British system: "In Great Britain the cabinet, not the House of Commons, is the

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body which really controls the finances of the realm. To this it will be replied, of course, that the cabinet is merely the agent of the House and is responsible to it; but the fact remains that the House cannot insert or increase any item. It can only reduce, and even this it cannot well do unless the ministers acquiesce."[10] That the Assembly is free from any such rigorous control as that of the cabinet over the House of Commons was amply demonstrated in 1932, as we have seen; with the utmost freedom the Assembly reduced (and sometimes even increased) items in the budget as drawn up by the Secretary-General, overriding when and as it chose the advice of the Supervisory Commission. In a word, the Assembly, through the actual operation of the Financial Regulations, possesses absolute and unlimited control over the purse of the League, subject always, of course, to the qualification that the Member States cannot be legally or practically compelled to contribute to that purse. But whatever is in the purse is under the jurisdiction of the Assembly rather than of any other League organ. And, as has more than once been demonstrated in the history of national political institutions, the organ possessing financial power soon comes to possess all other power as well.

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10. Munro, W.B. - The Governments of Europe, N.Y., 1929. p.222.

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CHAPTER VII. The Assembly and the Settlement of International Disputes.

1. General Background of the Special Session of 1932-1933.

It has already been indicated that, during the first decade of its existence, the Assembly had possessed itself of considerable power in nearly every activity of the League. There was, however, one notable exception. The Assembly had never yet taken any part in the settlement of international disputes. It had left the function of guardian of world peace exclusively to the Council. Now, since 1932, the Assembly has encroached, with important constitutional as well as political consequences, even on this preserve of the Council.

The legal basis for this step forward on the part of the Assembly is found in the Covenant, so it is that document that we must first consider. Article 15, Paragraphs 9 and 10, reads as follows: "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 dispute provided that such request be made within fourteen days after the submission of the dispute to the Council. (10) In any case referred to the Assembly, all the provisions of this Article and of Article 12 relating to the action and power 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 dis-

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pute, shall have the same force as a report of the Council concurred in by all the members thereof other than the representatives of one or more of the parties to the dispute."

Paragraph 9, then, embraces two possibilities of an international dispute being referred to the Assembly, namely, either by the Council on its own initiative, without limitation as to time, or at the request of one of the parties to the dispute, but on condition that such request must be made within fourteen days after the submission of the dispute (under Article 15) to the Council. Paragraph 10 lays down the action and powers of the Assembly in such a case, specifying that, with the exception of the majority required for adoption of a report, such action and powers are to be governed by the provisions of Articles 12 and 15 relating to the action and powers of the Council. So we must turn next to those articles.

Article 12 provides that all Members of the League agree, if there should arise between them any dispute likely to lead to a rupture, to submit the matter either to arbitration or judicial settlement or to enquiry by the Council; that they further agree in no case to resort to war until three months after the award of the arbitrators or the judicial decision or the report by the Council; and that 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.

The provisions of Article 15, Paragraphs 1 to 8, are as follows:

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1. 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.
2. 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.
3. The Council shall endeavor 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.
4. If the dispute is not thus settled, the Council either unanimously or by 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.
5. 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.
6. 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.
7. 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.
8. If the dispute between the parties is claimed by one of them, and 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.

Little comment is needed to clarify these two articles, which are to operate in the case of submission of a dispute to the Assembly. Even together, they give little guidance to that body as to how it should proceed. Article 12 merely specifies that the report must be made within six months after the submission of the dispute, and the only pertinent provisions of

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Article 15 to guide the Assembly are that it should endeavor to effect a settlement, that if it cannot do this it must 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; and then of course the provision of Article 15, Paragraph 10 in regard to the majority required to give an Assembly report equal force with one unanimously adopted by the Council, excepting the parties to the dispute. In short, it is clear that the Assembly, once a dispute were referred to it, would be generally free to follow any means it desired (of course within the limits of the rest of the Covenant) to effect a settlement, and that failing, to work out a report according to any method it deemed proper.

Finally, there remains the all-important question of the power of the Assembly (or of the Council) to force a settlement, or to ensure the observance of the recommendations contained in the report envisaged in Articles 12 and 15. Without entering into the complex and technical aspects of the question here, it can safely be stated that the Assembly (or the Council) has no real power to dictate a settlement or to compel observance of the recommendations contained in its report. Article 16, the article embodying what economic and military sanctions are provided in the Covenant, has been so interpreted as to become admittedly ineffective. In the Second Assembly, a resolution of interpretation was adopted, which made it clear that the samctions of Article 16 could not be called into force by any League organ. This resolution, the substance of which has since been embodied in an amendment to Article 16 still awaiting

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ratification, can without a doubt be taken to represent the construction that the sovereign Member States themselves place upon the Article in question. First of all, the resolution declares it to be the right of each Member to decide for itself, whatever may have been the decision of the Council, whether a breach of the Covenant has been committed, and therefore, to all appearances, whether it is bound under Article 16 to join in the employment of the sanctions therein envisaged. Secondly, the resolution declares that a state of war is not created by the unilateral act of the defaulting State, but only a situation which entitles the other Member States to resort to acts of war or to declare themselves in a state of war with the covenant-breaking State. Thus again the States reserve the right of final decision to themselves, rather than entrust it to any League organ. Finally, the Second Assembly declared that, as to particular Members, the Council might "postpone the coming into force of any of these measures for a specified period where it is satisfied that such postponement will facilitate the attainment of the object of the measures....or that it is necessary in order to minimize the loss and inconvenience which will be caused to such Members."[1] With the Council possessed of such powers of discrimination, Member States likely to be seriously affected by the use of sanctions would naturally bring heavy pressure to bear upon the Council for postponements, and thus the chances of uncertainty and possible discord would be much increased. In any case, it is obvious that the resolution made

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1. For this resolution, and discussion on it, see Records, Second Assembly, Plenary Meetings, pp. 400-465.

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Article 16 practically ineffective. By giving each Member the right to judge for itself whether the sanctions provided in that article are to be called into use, the resolution at one stroke deprived the League organs of any real coercive power, and also gave each State a convenient loophole of escape from the obligations of the article, thus making it practically certain that the unity of action which alone might make the sanctions effective will be impossible of realization when the need arises.

It would be useless to labor the point further. Whether any settlement will be made, or any report carried out, depends, therefore, first on the good will of the parties to the dispute; that missing, upon their sensitiveness to the moral pressure which is the only sanction that League organs can themselves call into play. If that fails, real economic and military sanctions come into operation only if the sovereign Member States display a willingness to use them. The obvious and inevitable conclusion appearing from this constitutional defect, and borne out by the events of 1931-1933, is that the Covenant is weak as against the sovereignty of a powerful League Member. At any rate it seems clear that either the Council or the Assembly might fail to settle a serious international dispute entirely beaause of factors beyond their control. Moral power was the maximum which the sovereign States were willing to grant to the organs of the League; and that moral power cannot always be expected to suffice was amply demonstrated in the Sino-Japanese dispute of 1931-1933. It being our purpose here to consider the Assembly as an agency for the settlement of international dis-

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putes, we shall deal only briefly with the activities of the Council in attempting to effect a settlement, between September 1931 and March 1932.[2]

On the night of September 18th-19th, 1931, in consequence of an incident near Mukden, in the South Manchurian Railway zone, which was guarded by Japanese troops, the Japanese command, on the ground that military precautions were necessary, sent troops outside the railway zone, more especially to the neighboring Chinese towns and to the Chinese railway lines terminating at Mukden. In short order, several Chinese towns were occupied, and the Chinese troops disarmed or dispersed.

On September 21st, China appealed under Article 11 of the Covenant and asked the Council to take immediate steps to prevent the further development of a situation endangering the peace of nations, to reestablish the "status quo ante", and to determine the amount and character of such reparations as might be found due from Japan. The Council immediately proceeded to consideration of the matter with a view to speedy settlement.

Repeated assurances were received from Japan that she had no territorial designs in Manchuria, and that she would withdraw her troops within the South Manchurian Railway zone, subject solely to the condition that the safety of the lives and property

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2. The brief account here given of the developments between September, 1931 and March, 1932, is an extract from Part III of the Report adopted by the Assembly on February 24th, 1933. It is Document A (Extr.) 22.1933.VII, and is to be found in the Official Journal, S.S. 112, pp. 58-64. This report gives an excellent and sufficiently detailed account of the whole question.
Also, there is a very good analysis found in Morley, "The Society of Nations", op, cit., chapter 12.

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of Japanese nationals be assured. Such was the purport of the resolution adopted by the Council on September 30th, and again of the draft resolution of October 24th. The latter, however, was rejected, Japan alone opposing it; and under Article 11, no exception is made as to the unanimity rule. But the Council was able once more to secure pledges from the Japanese delegation. Meanwhile, the United States Government had agreed to cooperate to a rather considerable extent with the Council, on the basis of the Pact of Paris. Meanwhile, also, Japanese military activities continued to spread over more and more of the area of Manchuria.

After the rejection of the draft resolution of October 24th, the Japanese insistence on the need for settlement of the fundamental questions which divided the disputants led the Council, without prejudice to the execution of the undertakings embodied in the resolution of September 30th, to put forward measures with a view to a final and fundamental solution by the two Parties of the questions at issue between them. On December 10th, 1931, the Council, on the proposal of the Japanese delegation, decided to appoint a commission of five members, with instructions to make an enquiry on the spot and to report to the Council on "any circumstances which, affecting international relations, threaten to disturb peace between China and Japan, or the good understanding between them upon which peace depends."

Between December, 1931, and March, 1932, however, the situation in the Far East continued to grow steadily worse. Japanese troops completed the occupation of South Manchuria

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and began the occupation of North Manchuria. Moreover, outside Manchuria, a severe conflict, involving Chinese and Japanese regular forces, was begun and carried on at Shanghai. At the same time, the reorganization of the civil administration in those parts of Manchuria occupied by Japanese jorces resulted in the formation of an independent State styled "Manchukuo", which did not recognize Chinese sovereignty. As a result of all these unfortunate developments, which the Council had failed to prevent, the Chinese Government, on January 29th, 1932, asked that the dispute be dealt with under Articles 10 and 15 of the Covenant.

Even this move failed to produce any effective results. So on February 12th, the Chinese delegation requested the Council to refer the dispute to the Assembly. The dispute having been submitted under Article 15 on January 29th, February 12th was the last day, in view of the fourteen-day time limit imposed by Paragraph 9 of the Article, on which the Chinese Government could request such reference to the Assembly. It called attention to this fact, and added: "If, however, it should be the pleasure and intention of the Council to refer said dispute at its own initiative to the Assembly, or in virtue of the general power vested in it to summon the Assembly for the consideration of a dispute, the Chinese Government will then be prepared to withdraw the request on its part."[3]

Japan, following her obstructive tactics, raised technical legal objections to the convocation of a special session of the Assembly, which necessitated the creation of a Commission

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3. Official Journal, S.S. 101, p. 10.

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of Jurists to consider the objections. On February 18th, the Commission decided against the Japanese claims, and on the 19th the Council adopted a resolution referring the dispute to the Assembly, but specifically asserting that "the duty of the Council to continue its work for the maintenance of peace in accordance with the Covenant remains unaffected by the present decision."[4] In view of the fact that all the States Members of the League already had delegates in Geneva for the Disarmament Conference, the Council was able to fix the date for the opening of the Special Assembly at March 3rd, just twelve days after it took the decision to refer the dispute to the Assembly.

The conditions under which the Assembly on March 3rd undertook the settlement of the dispute were such as to make its task as difficult as could be conceived in any possible dispute that could come before the League. In combination with the constitutional weakness already indicated, these conditions made the outlook most discouraging, as they had already done in the case of the Council. In the first place, the dispute was between two Oriental countries, whose general background, ethical principles, and political practices were not completely comprehended, nor could be, by the Western statesmen who attempted the settlement. The League system for the settlement of international disputes was created by Western statesmen, and was based upon the Western state system, Western political practices, and the international law developed between the Western nations. The Oriental basis for judging the quality of an act is quite

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4. Official Journal, S.S. 101, p. 10.

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different from that invoked in the Western world. Without going into detail, it can be stated as generally accurate that, as between Orient and Occident, the moral opprobrium of a worldwide opinion is not likely to have as much effect on an Oriental as on a Western nation. As a result, the strength of the Assembly, embodied solely in moral force, could be expected to be much weakened in the particular dispute which came before it in 1932-1933. In the second place, the geographical remoteness of the area involved in the dispute presented difficulties, which would have been absent, or at least less important, had the dispute arisen in Europe or nearby. The very names of the men and places involved were strange-sounding and unfamiliar in Geneva. The geography of the Far East was not accurately known or understood. Much more important, the backwardness of the area in question, in regard to communication facilities, made it extremely difficult for the League organs to secure adequate and accurate information on the very facts of the case. Obviously, no dispute can be settled until there has first been agreement on the facts; so the solution was made much more difficult by the circumstance that Japan could present one set of facts, and China another, for many months after the dispute had broken out. Of course, the conclusion and circulation of the Lytton Report largely remedied this difficulty; but the Lytton Report did not appear until October, 1932, by which time events had taken a course that made solution even more difficult. In the third place, and in addition to the difficulty of getting at the facts, the facts themselves were such as to increase the complexities of the dispute. The treaty rights of Japan, the political disorganization of China, the

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character of the population in Manchuria, the actual political and legal connection between Manchuria and the Nationalist Government of China, all these things, and many more, complicated the problem of the League very seriously. In the fourth place, the dispute arose just at a time when the force of the League was greatly impaired by the effects of a universal and unprecedented depression. This meant that practically all States Members of the League were so much occupied with attempts to relieve their own peoples from the effects of the depression that any consideration they might give to the Sino-Japanese dispute was bound to be decidedly secondary. Moreover, the existence of the depression meant that the Member States would be even less willing than before to employ on their own initiative the sanctions provided for in Article 16 of the Covenant. Thus another check on the aggressive tendencies of either of the disputants was removed, and ultimate solution made more difficult for the Assembly. In the fifth place, the non-universality of the League, and hence of any action to be taken by the Assembly, was another factor making settlement of the dispute more difficult. This factor, however, was not uniquely applicable to the Sino-Japanese dispute, so it need merely be mentioned. Furthermore, its force was distinctly weakened by the cooperation of the United States. As Morley says, "the United States on the whole strongly supported and even exercised leadership in the Council's policy, while Russia did nothing to oppose."[5] However, there was no certainty that the United States would continue to cooperate, or Russia to remain indiffer-

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5. Morley, F., op. cit., p. 497.

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ent, if the League should adopt a really drastic policy; and looked at from this point of view, the non-membership of the United States and the Soviet Union might well have been a retarding factor, making it more different for either Council or Assembly to arrive at a sound and just settlement of the dispute.

Finally, there is the interesting theoretical question as to whether the outcome would have been different had the dispute been submitted at an earlier stage to the Assembly, as might have happened if the Council on its own initiative had decided earlier so to submit it, or if the Chinese Government had made its request for reference to the Assembly earlier. In other words, could the Assembly have done any more than the Council did, between September, 1931, and March, 1932? The question must remain in the field of speculation, for there is no evidence on which to base a definite conclusion. There are some factors pointing one way, and some the other. On the one hand, the energetic action of the smaller Powers in the Assembly once that body had been seized of the dispute would seem to indicate that they would have shown a similar energy at an earlier stage, rather than adopt the hesitant tactics which marked the consideration of the dispute by the Council. On the other hand, there is no reason to believe that the Assembly would have been any more successful than the Council in outmaneuvering the obstructive tactics of the Japanese. Had Japan given her repeated assurances of the absence on her part of any territorial designs in Manchuria to the Assembly rather than to the Council, with conditions being as difficult and complicated as they were, the Assembly would in all probability have accepted such assurances in good faith, just as did the Council. However, it should be

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noted, in the Council, from September to January, the dispute was being considered under Article 11 of the Covenant, which contains no clause exempting its operation from the unanimity rule. It was in consequence of this fact that the resolution of October 24th was rejected, and that the Council could not name a Commission of Enquiry to make an investigation on the spot until Japan had signified her consent. The dispute could have been referred to the Assembly, however, only under Article 15, which provides for action without the consent of the parties to the dispute; hence the Assembly might have proceeded more rapidly to the appointment of a Commission of Enquiry. But whether such a step would have made any essential difference is doubtful. The essential requirement in the early months was prevention, not settlement; the procuring of a "cease firing" situation on both sides, so that the controversy could not develop any more serious complications. And there is no reason to believe that the Assembly, having no greater effective power than the Council, would have been any more successful than was the latter in checking the military advances of Japan.

There is no need to carry this speculation any further. Whatever the answer may be to the question of what might have happened if the dispute had been submitted earlier to the Assembly, it was clear by March that the Council had failed, that the crisis was extremely serious, for the League as well as for the disputants, and that more than preventive measures would be necessary. The dispute had already passed the preventive stage. What was required was no longer prevention, but settlement.

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2. The Extraordinary Session of 1932-1933.

When the extraordinary session of the Assembly opened on March 3rd, at 10:30 a.m., with M. Paul-Boncour, President of the Council, in the chair, there were fifty States in attendance, representing the better part of the world community, a unique recognition of the Covenant principle that any war or threat of war is a matter of concern to the family of nations. The preliminaries over, the Assembly turned to the election of its permanent President. Forty five out of forty-seven valid votes were significantly cast for M. Paul Hymans, the Belgian Foreign Minister, and the representative of a nation of little military prowess, of one which eighteen years before had been the victim of the use of armed force in violation of existing treaties. After M. Hymans had made a brief statement, he proposed, in view of the fact that there would be no regular Assembly committees, and that the Bureau would have important responsibilities, that eight Vice Presidents rather than the usual six be chosen. Again the Assembly choices were significant. In addition to the four Great Powers, Great Britain, France, Germany and Italy, there were chosen the first delegates of Switzerland, Sweden, Mexico and Persia. Thus all continents were represented, and by very progressive members.

Wasting no time, the Assembly met for the second time in the afternoon of March 3rd, and after hearing lengthy general statements of their cases by both disputants, proceeded, on the proposal of the Bureau, to establish another precedent by setting up a committee of the whole, called the General Commission, and

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turning over to it the whole question on the agenda. This General Commission likewise wasted no time. At its first meeting on March 4th, it elected Hymans as Chairman, decided that the Bureau of the plenary body should act in the same capacity for it, and then immediately opened discussion on a draft resolution proposed by the Bureau and having to do with the most pressing problem of the dispute, the cessation of hostilities in the Shanghai area. The resolution read as follows:[6]

"The Assembly,

Recalling the suggestions made by the Council on February 29th, and without prejudice to the other measures therein envisaged: (thus establishing continuity between the previous activities of the Council and those of the Assembly, and also placing Assembly approval on Council activities)

1. Calls upon the Governments of China and Japan to take immediately the necessary measures to ensure that the orders which, as it had been informed, have been issued by the military commanders on both sides for the cessation of hostilities, shall be made effective;
2. Requests the other Powers which have special interests in the Shanghai settlements to inform the Assembly of the manner in which the invitation set out in the previous paragraph has been executed;
3. Recommends that negotiations be entered into by the Chinese and Japanese representatives with the assistance of the military, naval, and civilian authorities of the Powers mentioned above for the conclusion of arrangements which shall render definite the cessation of hostilities and regulate the withdrawal of the Japanese forces. The Assembly will be glad to be kept informed by the Powers mentioned above of the developments of these negotiations."

After the delegates of Great Britain, France, and Italy had promised to forward to the Assembly any precise information that they might receive through their military attachés on the spot, the Japanese delegate, M. Sato, attempted to introduce the obstructive tactics which had succeeded so well in the Council. He proposed a change in the third section of

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6. Official Journal, S.S. 101, pp. 42-43.

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the resolution, by the insertion after the words "cessation of hostilities" the following clause: "And regulate the conditions and technical arrangements of the withdrawal of the Japanese forces, as well as the future situation of the Chinese forces."[7] Obviously, the adoption of this clause would have vitiated the third section of the resolution, changed it basically, and given the Japanese an opportunity for further delay, as the Chairman, M. Hymans, pointed out, in asking the members present to voice their opinions. None of the representatives of the Great Powers had anything to say, but those from the smaller States were equal to the situation. M. Motta, of Switzerland, boldly stated: "The principle of the withdrawal of the Japanese forces can no longer be questioned..... Under Article 15 it is possible for the Assembly to pass valid resolutions provided the States members of the Council present at the Assembly are unanimous, and there is a majority of the other States. The votes of the two parties to the dispute are not counted. I hasten to add, however, that I very strongly hope that we shall secure not only legal unanimity, but complete moral unanimity."[8] Mr. Motta was immediately upheld by other small Power delegates, so M. Sato, although disagreeing as to the validity of a resolution adopted without full unanimity, consented to withdraw his proposed amendment, and the resolution was adopted unanimously without change. That same evening (March 4th) the plenary body was convened to give formal Assembly approval to the resolution, which it did

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7. Official Journal, S.S. 101, p. 40.

8. Ibid., p. 41.

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without further discussion. A copy of the resolution was sent by the Secretary-General to Mr. Hugh Wilson, the American Minister at Berne, by whom it was forwarded to the Secretary of State. The next day the reply came, to the effect that the American military authorities at Shanghai had been ordered to cooperate in furnishing accurate information to the Assembly.[9] Thus the valuable collaboration of the United States with the League was continued, even though the dispute had been transferred from the Council to the Assembly.

On March 5th the General Commission renewed its sittings. The delegates from the disputing States each made statements in regard to the situation in the Shanghai area, which were again rather conflicting. In the absence of any full and complete information, nothing further could be done on this matter. But rather than merely mark time, the General Commission, on the proposal of its Chairman, turned to a general discussion of the problem as a whole, thu s making full use of its forum as a moulder of world public opinion. The general discussion continued for three days, to March 8th. It was practically monopolized by the representatives of the smaller States, twenty-nine of them participating. As a result, the Japanese delegation was made to feel the full brunt of almost universal opprobrium. There was no mincing of words. The Swedish delegate, for instance, expressed his country's views thus: "Without wishing to give an opinion on the respective claims underlying the conflict, we are of the opinion that the landing of troops and their use in military

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9. Official Journal, S?S. 101, p. 44.

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operations on the territory of another Power are contrary to the provisions of the Covenant and the Pact of Paris."[10] Again, the delegate from Colombia proposed a very advanced draft resolution, "requesting" the Jaganese Government to withdraw its troops from Shanghai, and to commence the evacuation of Manchuria, the evacuation to be completed within a time limit to be fixed, account being taken of technical requirements, by a Committee appointed by the Assembly.[11] The whole discussion made it apparent that if the leadership assumed by the smaller Powers were allowed to continue, the policy of the Assembly would be considerably stronger than had been that of the Council, and would adhere more strictly to the broad general principles of the Covenant and the Pact, without permitting the complex and often conflicting details to befog the issue. Moreover, the small part taken by the delegates of the Great Powers in the general discussion might well be taken to indicate that they were quite willing to allow leadership to pass into the hands of the smaller Powers.

This indication was strengthened by the procedure followed at the end of the general discussion, when the question arose of the composition of the drafting Committee to be named to work out a resolution on the basis of the general discussion. M. Benes, the representative of Czechoslovakia, proposed that any delegate having a draft resolution to offer should participate in the work of the drafting Committee. As no one objected,

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10. Official Journal, S.S. 101, p. 49.

11. Ibid., p. 63.

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this proposal was adopted.[12] It was not a new departure. The regular practice in ordinary committees had been, as we have already seen, to appoint to sub-committees those who had taken the most active part in the discussion, or who represented the conflicting views expressed. But, this was a more than usually important application of the practice. It meant that the bolder small States were to be left free to draft a resolution that was strong enough to satisfy them. As it turned out, Great Britain was the only Great Power to submit a draft, the other members of the drafting Committee being the delegates from Colombia, Czechoslovakia, Estonia, Finland, Greece, Norway, Salvador, Spain and Switzerland.

Meanwhile, the Assembly resolution of March 4th, in regard to the cessation of hostilities, was beginning to take effect. The Secretary-General communicated to the General Commission the reports coming in from the military attachés of Great Britain, France, Italy and the United States, which were agreed that slow progress was being made. Thus was indicated the value of having observers on the spot, who were in a position to enlighten world public opinion without delay on the sincerity of the disputants in carrying out their commitments.

Just three days after its appointment, the drafting committee was ready to offer its proposals for the consideration of the General Commission. This was a happy contrast to the dilatoriness of the Council which, for example, had needed seventeen days to draft the resolution setting up the Lytton

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12. Official Journal, S.S. 101, p. 80.

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Commission.[13] It indicated further that the members of the committee were in full agreement as to the positive measures to be taken. At any rate, the draft resolution was adopted by the General Commission on the same day as it was presented, with a few mere drafting amendments, thus offering further evidence that the procedure of the Assembly was fully adequate to handle a dispute with the proper dispatch. Before the resolution was voted, M. Sato explained that, inasmuch as the Japanese delegation was attending the Assembly subject to the reservations it had already made in regard to the applicability of Article 15, it would abstain from voting. In the evening of the same day (March 11th) the plenary body was reconvened, again merely to place its approval on the work of the Committee of the whole, China and Japan not voting. The resolution thus adopted is of sufficient importance to merit quotation, in spite of its length.[14] It follows.

I

The Assembly,

Considering that the provisions of the Covenant are entirely applicable to the present dispute, more particularly as regards:

(1) the principle of scrupulous respect for treaties;

(2) the undertaking entered into by Members of the League of Nations to respect and preserve as against external aggression the territorial integrity and existing political independence of all the Members of the League;

(3) their obligation to submit any dispute which may arise between them to procedures for peaceful settlement;

Adopting the principles laid down by the Acting President of the Council, M. Briand, in his declaration of December 10th, 1931;

Recalling the fact that twelve members of the Council again invoked those principles in their appeal to the Japanese Government on February 16th, 1932, when they declared that no

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13. See Morley, op. cit., p. 465-466.

14. Official Journal, S.S. 101, pp. 87-88.

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infringement of the territorial integrity and no change in the political independence of any Member of the League brought about in disregard of the Covenant ought to be recognized as valid and effectual by Members of the League of Nations;

Considering that the principles governing international relations and the peaceful settlement of disputes between Members of the League are in full harmony with the Pact of Paris, which is one of the cornerstones of the peace organization of the world and under Article 2 of which "the High Contracting Parties agree that the settlement or solution of all disputes or conflicts, of whatever nature and whatever origin they may be, which may arise among them, shall never be sought except by pacific means";

Pending the steps which it may ultimately take for the settlement of the dispute which has been referred to it;

Proclaims the binding nature of the above principles, and declares that it is incumbent upon the Members of the League of Nations not be recognize any situation, treaty or agreement which may be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

II

The Assembly,

Affirming that it is contrary to the spirit of the Covenant that the settlement of the Sino-Japanese dispute should be sought under the stress of military pressure on the part of either Party;

Recalls the resolutions adopted by the Council on September 30th and December 10th, 1931, in agreement with the Parties;

Recalls also its own resolution of March 4th, 1932, also adopted in agreement with the Parties;

Notes that the Powers Members of the League having special interests in the Shanghai Settlements are prepared to give every assistance to this end, and requests these Powers, if necessary, to cooperate in maintaining order in the evacuated zone.

III

The Assembly,

In view of the request formulated by the Chinese Government on January 29th, invoking the application to the dispute of the procedure provided for in Article 15 of the Covenant of the League;

In view of the request formulated by the Chinese Government on February 12th that the dispute be referred to the Assembly in conformity with Article 15, paragraph 9 of the Covenant, and in view of the Council's decision of February 19th;

Considering that the whole of the dispute which forms the subject of the Chinese Government's request is referred to it, and that it is under an obligation to apply the procedure of conciliation provided for in Paragraph 3 of

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Article 15 of the Covenant, and if necessary, the procedure in regard to recommendations provided for in Paragraph 4 of the same Article;

Decides to set up a Committee of nineteen members, namely, the President of the Assembly, who will act as Chairman of the Committee, the members of the Council other than the parties to the dispute, and six other members to be elected by secret ballot;

This Committee, exercising its functions on behalf of and under the supervision of the Assembly, shall be instructed:

(1) To report as soon as possible on the cessation of hostilities and the conclusion of arrangements which shall render definitive the said cessation, and shall regulate the withdrawal of the Japanese forces in conformity with the Assembly resolution of March 4th, 1932;

(2) To follow the execution of the resolutions adopted by the Council on September 30th and December 10th, 1931;

(3) To endeavor to prepare a settlement of the dispute in agreement with the Parties, in accordance with Article 15, Paragraph 3 of the Covenant, and to submit a statement to the Assembly;

(4) To propose, if necessary, that the Assembly submit to the Permanent Court of International Justice a request for an advisory opinion;

(5) To prepare, if necessary, a draft of the report provided for in Article 15, Paragraph 4 of the Covenant;

(6) To propose any urgent measures which may appear necessary;

(7) To submit a first progress report to the Assembly as soon as possible, and at the latest on May 1st, 1932.

The Assembly requests the Council to communicate to the Committee, together with any observations it may have to make, any documentation that it may think fit to transmit to the Assembly.

The Assembly shall remain in session, and its President may convene it as soon as he may deem this necessary.

An analysis of this lengthy resolution reveals several characteristics of more than ordinary importance. In the first place, it represented the maximum degree of forcefulness which the League had thus far assumed in dealing with the sovereign Member States. The last paragraph of Part I declares that it is "incumbent" on the Members of the League not to recognize any situation, treaty or agreement which might be brought about by means contrary to the Covenant or the Pact of Paris. Previously, League organs, in addressing themselves to the Member

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States, had merely "recommended", or "urged" upon them, the adoption of certain policies and actions. The use of the term "incumbent", however, implies the dictation of a duty, and hence implies also the power of a League organ so to dictate to the Member States. That the League organ which employed this very strong term was the Assembly, was a fact of no little constitutional significance, in regard to the relative position of that body within the League. In the second place, the opening sentence of Part I involves an assumption by the Assembly of the right to interpret the League Covenant. The statement "considering that the provisions of the Covenant are entirely applicable to the present dispute" does in fact constitute an interpretation contrary to that maintained by Japan, which contended, among other things, that China did not meet the requirements of Article 1 of the Covenant in regard to membership, and that she was consequently not entitled to claim protection under the Covenant as a Member of the League. By asserting that the Covenant was applicable to the dispute, the Assembly assumed the right to interpret the Covenant over the heads of the Member States, and thus took another long step forward in its acquisition of power not only within the League but also in its relations with the Member States. Of course, this step was taken with the unanimous consent of all Members of the Assembly except Japan, and undoubtedly not many of them realized the constitutional significance of their act. But that does not detract from its significance. Many advances in national governmental power were made unconsciously.

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Again, the first sentence of Part II of the resolution declares as a formal interpretation of the Covenant that military pressure on the part of either party to a dispute must be eliminated before a settlement can or should be made. This step was taken upon the basis of the lead given by Secretary of State Stimson in his statement of December 10th, 1931, which was based upon the Pact of Paris. Thus the Assembly interpretation was a strong attempt to bring the Covenant into conformity with the Pact of Paris, as well as to assert the outlawry of the practice of armed intervention by individual States in the affairs or on the territory of other individual States. In place of this practice, the final paragraph of Part II attempts to set up one according to which individual Powers, acting under the mandate of the family of nations (as represented in the League) "cooperate in maintaining order" in the area involved.

Finally, through Part III of the resolution, the Assembly made an important procedural advance, in regard to its functions in the settlement of international dispute. The plenary body would obviously have been slow-moving and unwieldy in the handling of the question. Perhaps even the General Commission, or committee of the whole, would have been subject to somewhat the same defects. These difficulties, inherent in a large, formal body, were eliminated by the procedure adopted by the Assembly, namely, the reference of the whole question on the agenda, with instructions that covered practically every conceivable eventuality, to the compact and efficient Committee of Nineteen, and the adjournment of the plenary body until further notice. Thus the powers given to the Committee of Nineteen were

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as wide as those possessed by the parent body itself, subject to the qualification that the Committee was to exercise its functions "under the supervision of the Assembly"; that is to say, its actions required formal Assembly approval before they became effective.

Moreover, the composition of the Committee of Nineteen was such as to insure a continuance of the energetic policy already inaugurated in the Assembly. For Chairman, it was to have M. Hymans, the President of the parent body, and the representative of a progressive small Power. Then there were the twelve States then having membership in the Council, the disputants being explicitly excluded. These twelve were Great Britain, France, Germany, Italy, Guatemala, Irish Free State, Norway, Panama, Peru, Poland, Spain and Jugoslavia. And finally, there were the six elected by secret ballot, immediately after the adoption of the resolution as a whole. Significantly, the choices of the Assembly were nations whose representatives had already given indication of the advanced nature of their opinions in the general discussion in the General Commission. The six elected were Switzerland, Czechoslovakia, Colombia, Portugal, Hungary and Sweden.[15] In a word, the Committee of Nineteen was a fairly accurate cross-section of the whole Assembly.

A final far-reaching provision of the resolution was its last sentence: "The Assembly shall remain in session and its President may convene it as soon as he may deem this necessary." By this statement, the special session gave itself an

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15. Official Journal, S.S. 101, p. 89.

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unlimited duration. In other words, the power of the Assembly to remain permanently in session was asserted and approved without opposition. Again, it is probably true that the members of the Assembly were unaware of the constitutional significance of this provision. This in itself indicates how far the League had advanced from the strict provisions of the Covenant as fixed in 1919. Such a step would have been denounced as revolutionary and unconstitutional in 1920. In 1932, it was accepted without question, marking another milestone in the steady march of the Assembly towards sovereignty within the League of Nations.

Six days after the adoption of the resolution creating it, the Committee of Nineteen held its first public meeting. After being informed of the reply of the United States Government to a letter containing the Assembly resolution of March 11th sent to it by the Secretary-General, which reply indicated that the United States was in wholehearted sympathy with the resolution, the Committee turned to an examination of the situation in the Shanghai area. The reports of both the Chinese and Japanese delegates, supplemented by the reports from the military attachés of the Powers at Shanghai, and forwarded to the Committee by the Secretary-General, indicated the considerable progress already made. Armistice negotiations between the disputants, under the auspices of the British minister at Shanghai, and having to do with the method and time for evacuation of the Japanese troops, were on the point of being concluded.[16] So, no particular action on the part of the committee

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16. Official Journal, S.S. 101, pp. 90-95.

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being necessary, the discussion ended without any specific results, in the form of resolutions or recommendations.

Six weeks later, on April 30th, the last day permissible under the resolution of March 11th, the Committee of Nineteen presented its "First Progress Report" to the plenary body. The report was fully entitled to be called a report of "progress". President Hymans, as Chairman of the Committee, in summing up the facts contained in the report, was able to say that hostilities in the area of Shanghai had ceased several weeks before, that the withdrawal of the Japanese troops was then being carried out, and that the agreement for an armistice in regard to the Shanghai area was virtually settled.[17] As a consequence, the Committee proposed a resolution which, after general statements by the Chinese and Japanese delegates, was adopted unanimously, the Japanese again abstaining. The resolution, after noting the various developments, concluded with the statement that "the Assembly considers that the articles of armistice submitted to the Special Committee of the Assembly conform to the spirit of the Assembly resolutions, and expressly points out that unless a conclusion is reached as laid down in the same Assembly resolutions, the question will again come up before the Assembly."[18]

Thus the first phase of the Assembly's work, the cessation of hostilities in the Shanghai area, was successfully completed in less than two months. Nor can it be denied that it was the bold pressure exerted by the Assembly which brought

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17. Official Journal, S.S. 101, pp. 96-97

18. Ibid., p.99.

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about the Japanese withdrawal. The Tokyo Foreign Office admitted as much in the statement that the withdrawal was "due to a desire to conform with world opinion and to end the world-wide odium which has fallen upon us."[19] Of course, account must also be taken of the fact that the Shanghai episode was no essential part of the Japanese objective. This fact made moral pressure more effective in this case. The core of the dispute, the question of Manchuria, was still unsettled, and having no adequate information on which to proceed, the Assembly again adjourned without further action at this time, but remaining in session as before, at the call of the President.

The second phase of the handling by the Assembly of the Sino-Japanese dispute was a brief interlude, lasting from July 1st to December 1st, 1932, and having to do with the developments that took place while the Assembly was waiting for the report of the Lytton Commission. These developments were the admission of Turkey into the League, and the extension of the time limit provided for in Article 12, Paragraph 2 of the Covenant.

The first of these, the entry of Turkey into the League, was carried through in a hurried and more or less irregular manner, "as a sign to the world that the League is not passing through a crisis."[20] When the plenary Assembly was reconvened on July 1st, a draft resolution signed by twenty-nine Governements, and proposing that Turkey be invited to enter

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19. New York Times, May 12th, 1932. Quoted in Morley, p. 563.
20. Official Journal, S.S. 102, pp. 9-11.

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the League of Nations, was brought forward. M. Madariaga, the Spanish delegate, explained that his Government was responsible for the overtures to Turkey, and that, when Turkey had signified her willingness to join, it had convinced twenty-eight other Governments of the desirability of the step, for the above reason. So the Assembly had to call into play Rule 4 of its Rules of Procedure, which permits it "in exceptional circumstances, to place additional items on the agenda." At the next meeting, on July 6th, it again resorted to Rule 4 to avoid the need for committing this item to a committee. After a generally laudatory discussion, the Assembly adopted a resolution inviting Turkey to become a Member of the League; and after Turkey had accepted, a final resolution declaring her to be a Member was adopted on July 18th.[21] This hasty procedure was markedly different from that ordinarily followed in the admission of new Members, as previously explained. What moral significance the entry of Turkey into the League may have had, is a matter of doubt. At any rate, the 13th ordinary Assembly, which met in September-October, 1932, elected Turkey to fill the seat held by Czechoslovakia on the Committee of Nineteen, when the latter State was elected to membership in the Council, and thus retained her seat on the Committee in that manner.[22]

The second development, that connected with the extension of the six-month time limit provided for in Article 12, Paragraph 2 of the Covenant, was a matter of more practical

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20. Official Journal, S.S. 102, p. 21.

21. Official Journal, S.S. 104, p.85.

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importance. It was to consider this question that the plenary session was reconvened on July 1st. In June, it became clear that the report of the Lytton Commission would not be available before mid-September at the earliest. Paragraph 2 of Article 12, now applicable to the Assembly, specified that "in any case the report of the Council shall be made within six months after the submission of the dispute." This six-month period would expire for the Assembly on August 19th, 1932. Obviously, however, the Assembly could not make a conclusive report until after it had considered the report of the Lytton Commission. So the Committee of Nineteen, after considering the problem, proposed an extension of the time limit, by formal decision of the Assembly, and with the agreement of the Parties to the dispute. Two limitations were made: first, that this extension was in no sense to be regarded as a precedent, being made solely because of the special circumstances of this case, and second, that the extension was to be limited to the extent that might be strictly necessary to enable the Assembly finally to examine the report of the Lytton Commission, After this report was received by the Assembly, that body was to fix definitely the duration of the extension.[23] After several delegates complained of the need for such a step, accepting it nevertheless, the delegates of the disputants signified their assent, and the proposals were adopted in the form of a resolution. But the Chinese delegate made clear that its assent was not a small thing, which cost it nothing, for as he stated, any new delay was a matter of real gravity for

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23. Official Journal, S.S. 102, pp. 16-17.

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China, in view of the tactics and practices of the Japanese. He went on: "The Members of the League cannot lightly alter the procedure which the Covenant lays down, especially when that procedure is being used for the first time..... The reason why the Covenant is so categorical is plain -- delay is dangerous!"[24]

In this statement, the Chinese delegate hinted at something which apparently escaped all the other representatives in attendance. The Covenant was categorical, as he stated, in fixing six months as the time limit within which a report must be submitted. The action of the Assembly in extending this time limit was, then, an effectual and very real amendment of the Covenant. At the first ordinary session of the Assembly in 1920, it was timidly suggested that Assembly approval ought to suffice to make amendments to the Covenant effective. How that suggestion was then received has already been indicated. Yet, just twelve years later, not a voice was raised in defense of the sovereign power of Member States alone to amend the Covenant. Of course, it must again be mentioned that the occasion was an extraordinary one, and that the circumstances demanded some such action as that which was actually taken. But the fact remains that the Assembly assumed the right to amend the Covenant, and that its assumption was allowed to take effect without opposition. Emergencies have frequently provided the occasion for significant changes in governmental organization. Apparently the Special Assembly Session of 1932 was to provide another instance of the truth of this statement.

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24. Official Journal, S.S. 102, p. 12.

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For approximately three months after its July meetings, the Assembly was forced to remain idle, awaiting the report of the Lytton Commission. Japan, on the contrary, was anything but idle. The process of organizing the puppet state of "Manchukuo" went ahead with discouraging progress, culminating on September 15th in the formal recognition of the new "State" by Japan. Meanwhile, on September 4th, the report of the Lytton Commission was completed and signed at Peiping. It was communicated to the two disputant Governments shortly thereafter, and circulated to the Members of the League on October 1st. Thus begins the third and final phase of the handling of the dispute by the Assembly, that centering around the Lytton Report.

Immediately upon the completion of the report, the Japanese Government resumed its obstructionist tactics in the Council by requesting a minimum period of six weeks in which to prepare its observations on the report for communication to the Council. That body, on September 24th, once more succumbed to Japanese methods, acceding to the request, and deciding as a result to begin its consideration of the report "not later than November 21st."[25] The result of this Council decision was practically to force a still further delay on the Assembly, for it could not begin its consideration of the report until that document had been formally referred to it by the Council. This was due to the fact that the Commission had been an agency of the Council; hence its report had to go first to the Council for consideration before it could be taken up by the Assembly.

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25. Official Journal, S.S. 111, p. 15.

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However, on September 26th, the Chinese Government made an attempt to eliminate as much delay as possible. In a letter from Dr. Yen, the delegate of China, to the Chairman of the Committee of Nineteen, it requested that that body be convoked to decide upon the duration of the extension of the time limit, in accordance with the resolution of July 1st, and also "to take the necessary measures to prevent Japan from taking advantage of any delay to aggravate the situation."[26] In response to this request, the Chairman convened a meeting of the Committee of Nineteen on October 1st. After explaining the Chinese request, he asked for discussion. It soon appeared that there was general agreement that the Assembly could not proceed until it had received the Lytton Report from the Council. Hence, no definite extension of the time limit could be fixed until later. In regard to the second part of the Chinese request, the Chairman reminded the Committee that "on several occasions the Council and the Assembly have solemnly confirmed the undertaking into which the two parties entered on September 30th, 1931, and renewed on December 10th, 1931, that they would take all possible steps to prevent any aggravation of the situation..... Some few days ago, Mr. de Valera, President of the Council, expressed regret that, at the moment when the Council was awaiting the receipt of the Lytton Report, Japan, by recognizing what is known as the Manchukue Government, and by signing a treaty with it, had taken steps which were bound to prejudice settlement of the difference..... I think all my colleagues on this Committee

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26. Official Journal, S.S. 111, p. 85.

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will agree with me in expressing the same regret as Mr. de Valera. At the same time, I may remind you that the two Parties have solemnly undertaken not to aggravate the situation, and it is obvious that the changes in the time limits in no way release them from that obligation."[27] After several delegates had supported the statements of the Chairman, the latter proposed that, no formal resolutions being called for, the sentiments expressed in the Committee be communicated to the disputants. This was agreed upon, and the Committee rose without taking any further action.

The next seven weeks were consumed in waiting for the observations of the Japanese Government on the report. Finally, from November 21st to 28th, the Council considered the report and the observations of the Parties. The latter soon revealed that there was no measure of agreement between the Parties which would enable the Council usefully to engage in a discussion or to submit any suggestions. So the Council merely transmitted to the Assembly the report, the observations of the Parties, and the minutes of its own meetings.[28]

In consequence of this reference of the report and related documents, the Chinese Government renewed its request to the Committee of Nineteen to fix the duration of the extension of the time limit. The Committee met on December 1st, and now decided that it would be impossible to fix the extension until after the matter had been brought before the Assembly and

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27. Official Journal, S.S. 111, p. 17.

28. See Official Journal, November, 1932, pp. 1730 et seq.

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discussed by it, and after the Assembly had supplied the Committee with the bases upon which it could ultimately make a proposal.[29] Undoubtedly this was the only reasonable thing for the Committee to do. To fix a time limit arbitrarily, before the facts of the case and the needs of the situation had received adequate consideration, might well have led to difficulties. Further, nothing was lost by this decision. The Assembly, judging by the spirit it had previously displayed, could be depended upon to cause no more delay than was absolutely necessary.

At any rate, the Plenary Assembly was reconvened on December 6th, to begin the consideration of the Lytton Report. The discussion was opened with general statements of their respective cases by the Chinese and Japanese delegates. The former presented a well-reasoned argument contending that Japan was the aggressor, and had violated both the Covenant and the Pact of Paris. Specifically, he asked the Assembly to declare this violation, to call upon Japan to withdraw all troops within the railway zone, and to assert explicitly that it did not and would not recognize the Government of Manchukuo. The latter repeated the usual Japanese arguments, about the disorder and disorganization in China, the danger to Japanese nationals and property, and the spontaneous character of the state of Manchukuo. He concluded with this very defiant statement, as one of the proposals of his Government for a solution: "In case any plan for settlement is found by the League, this organization must take upon itself the responsibility for its execution. Considering

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29. Official Journal, S.S. 111, pp. 18-21.

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the actual condition in China, the execution is one that is likely to be costly, and the League should have both the will and the means to make the necessary sacrifices. Is any Member of the League ready to participate with others in such an undertaking?"[30] In effect, Japan by this statement was warning the League to expect no cooperation from the Japanese Government, and hinting that the League, in the absence of effective means to carry into execution a settlement, might be wise to let the matter drop. In short, Japan was making thinly veiled threats. But they produced no great effect in the Assembly.

For the next three days, Japan was bombarded with as steady and severe a barrage of unfavorable world opinion as could be imagined. The Assembly made the fullest use possible of its capabilities as a forum to direct world opinion in the path of peace. Twenty-five States participated in the discussion, among them the four Great Powers, France, Germany, Great Britain, and Italy, who were the most moderate of all. M. Paul-Boncour, for instance, explained that Japan had treaty rights in China, and treaties must be respected. The League must take cognisance of the disorders of China, and also of its own constitutional weakness, the absence of any collective means of enforcing its decisions. The first job of the Assembly was to make a strenuous effort for conciliation, and if that failed, then to work out a final report on the action to be taken.[31] This should be contrasted with the statement, for example, of

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30. Official Journal, S.S. 111, pp. 23-32.

31. Ibid., pp. 47-49.

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M. Benes of Czechoslovakia: "I realize the importance of this moment, the seriousness of the question with which we are dealing, and what may be the scope of the decision we are called upon to take, including if need be the invocation of measures in the nature of sanctions..... In a case like the present, it is the League's sacred duty to do its utmost to safeguard peace by administering international justice to the parties to the dispute.... The two central points in the Lytton Report are as follows: (1) were the Japanese military activities in Manchuria in the nature of legitimate self-defense or not?; (2) was the creation of the independent State of "Manchukuo" a spontaneous political act of the Chinese population, or did it occur as the result of particular circumstances, more especially of the military occupation by Japanese forces? To both these questions the Lytton Report gives an unhesitating and absolutely definite answer.... that means that the territory of a Power which is a Member of the League of Nations has been violated and that the Covenant has not been respected."[32] These extracts from the speech of M. Benes are quite typical of the statements of the twenty other delegates who represented smaller States. The effectiveness of world public opinion as a safeguard for peace was given a crucial test, for in this discussion in the Assembly it could not have been made any clearer to the Japanese Government that her policies were universally disapproved, the Great Powers, however, being much less bold in their disapproval than the smaller members of the family of nations. When the discus-

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32. Official Journal, S.S. 111, pp. 35-38.

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sion had come to a close, the Japanese delegate made quite clear that world opinion alone was unable to shake the determination of his Government. "Our nation regards the issue connected with Manchuria as involving the very existence of Japan; she looks upon it as a question of life and death. I owe it to candour to state that the irresponsible and misguided voices which were raised in the autumn of last year and the spring of this year in Geneva scared some of our people so mudh that they made up their minds to confron t even the severest of sanctions under the Covenant - that is to say, economic boycott. They were reqdy to face it if need be, and I have to tell you, gentlemen..... that even today our people are prepared to undergo it. And why? Because they believe that it is a question of now or never. They bow not before threats, they stoop not down even under sanctions....And they do believe that they are right."[33]

In the face of this defiant statement, which in effect was an assertion that Japan would yield to nothing but superior force, the Assembly calmly proceeded to carry out its task in conformity with its powers under the Covenant. On the 9th of December, it adopted without discussion a draft resolution proposed by the Swiss and Czechoslovakian delegations, as follows:[34]

> The Assembly,
> Having received the report of the Commission of Enquiry set up under the resolution adopted on December 10th, 1931, by the Council, together with the observations of the Parties and the Minutesof the Council meetings held

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33. Official Journal, S.S. 111, pp. 71-72.

34. Ibid., pp. 74-75.

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from November 21st to 28th, 1932;

In view of the discussions which took place at its meetings from December 6th to 9th, 1932;

Requests the Special Committee appointed under its resolution of March 11th, 1932:

(1) to study the report of the Commission of Enquiry, the observations of the Parties and the opinions and suggestions expressed in the Assembly, in whatever form they were submitted;

(2) to draw up proposals with a view to the settlement of the dispute brought before it under the Council resolution dated February 19th, 1932;

(3) to submit these proposals to the Assembly at the earliest possible moment.

Soon after the adoption of this resolution, the Committee of Nineteen resumed its sessions in private, to carry out the mission entrusted to it by the Assembly. By December 20th, it had completed certain texts, indicating generally the basis on which conciliation between the contending Parties should be effected, and the procedure to be followed with that object. These texts, which took the form of two draft resolutions and a statement of reasons, were adopted by the Committee and brought to the knowledge of the Parties through the Chairman of the Committee and the Secretary-General, who were authorized to negotiate with the Parties to secure their consent, which was necessary before the resolutions could be adopted by the Assembly and carried into effect. These texts, which were not published until conversations upon them had come to an unsuccessful conclusion, embodied the final attempt of the Committee to secure settlement on a basis of conciliation, before drawing up the report and recommendations called for in Paragraph 4 of Article 15. The texts proposed that the Committee of Nineteen, with the help of the United States and the Soviet Union, if the latter States were willing, should be empowered

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to conduct the negotiations with the Parties, with a view to settlement of the controversy on the basis of the principles already laid down by the League organs.[35]

When these texts were communicated to them, both Parties offered amendments; and the Japanese proposals were so extensive, and introduced such fundamental changes in the character of the proposals that it immediately appeared that the Committee would be utterly unable to propose to the Assembly a draft which could be adopted by unanimous vote, including the votes of the Parties. (It must be remembered that Paragraph 3 of Article 15, under which this attempt at conciliation was carried on, made no exception to the unanimity rule.) But the Committee desired to pursue its efforts along this line as long as possible, and so, to give Japan ample time to make new and less radical proposals, it decided to adjourn until January 16th, 1933, at the latest.[36] Between December 20th and January 16th, the Japnaese occupation of Shanhaikwan, and her threat to occupy Jehol, which she claimed as part of "Manchukuo", had made the situation considerably worse, from the Chinese point of view as well as from the point of view of ultimate settlement. What was worse, the Committee had received no new proposals from Japan on which to resume conversations. On the 16th, however, there came word that modified proposals could be expected within forty-eight hours; so the Committee decided to wait again, before concluding that its efforts at conciliation had

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35. Official Journal, S.S. 112, pp. 67-68.

36. Official Journal, S.S. 111, p.168.

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failed. Again Japan was demonstrating how completely she had learned the art of obstructionism. When her new proposals were presented on January 18th, "the Committee could only regard them as unacceptable, not only to China, but to the Committee itself."[37] Still the Committee was unwilling to give up its efforts for conciliation. On the 21st of January, it received fresh proposals from Japan, very little different from her previous offerings, thus indicating that her aim was not settlement, but delay. Finally, then, the Committee decided that it was clearly impossible, "at all events for the moment, to propose a prodedure for settlement which the two Parties could be ready to accept."[38] In these circumstances, it decided to begin preparation of a draft of the report provided for in Paragraph 4, Article 15 of the Covenant; but even now, it specified that this decision did not close the way to conciliation, and that the Committee remained at the disposal of the Parties for any further proposals they might desire to communicate to it. On this basis Japan did once again submit a new set of proposals, considerably weaker than any of her previous offerings, and hence of a sort to revive the hopes of the Committee and delay its final report still further. This was precisely what happened. The Committee resumed negotiations which were practically hopeless from the start. Finally, on February 14th, it pinned the Japanese Government down to the fundamental issue, and received the reply that that Government was "convinced that

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37. Official Journal, S.S. 112, p. 12.

38. Ibid., pp. 12-13.

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the maintenance and recognition of Manchukuo constituted the only guarantee of peace in the Far East, and that the whole question would eventually be solved between Japan and China on that basis."[39] At long last, the Committee of Nineteen "was obliged, to its profound regret, to consider that for its part it had exhausted all possible efforts at conciliation."[40] One week later, it had completed the preparation of its draft report and recommendations, and the plenary body was reconvened on February 21st.

The meeting on February 21st was devoted to an account by President Hymans of the developments which had taken place since the last plenary meeting on December 9th. He concluded with the sensible proposal that the members of the Assembly spend the next three days examining the draft report prepared by the Committee of Nineteen, so that the views of all might be fully crystallized before any action should be taken by the plenary body. This proposal was adopted; and in the three-day interval Japan submitted observations on the report, looking towards a change in some of its essential provisions.[41] But the Committee of Nineteen decided that there was no need for any change. So, when the plenary Assembly reconvened on February 24th, all that remained was the formal adoption of the report. The Chinese delegate expressed his country's "relief and satisfaction", adding that if Japan should reject the report,

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39. Official Journal, S.S. 112, p. 13.

40. Ibid.

41., Ibid., p. 14.

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the rights of China would remain wholly unaffected by its compliance with the report. M. Matsuoka, the Japanese delegate, reiterated his country's disagreement with the report, and her "life and death" attitude towards the Manchurian question. After several other delegates had announced their approval of the report, the vote was taken. There were forty-four States represented; of these, forty-two voted for the report, Siam abstained, and Japan opposed. The President therefore declared the resolution embodying the report unanimously adopted, in accordance with Paragraph 6 of Article 15 of the Covenant. Thereupon M. Matsuoka announced that his Government had reached the limit of its endeavors to cooperate with the League of Nations in regard to the Sino-Japanese dispute, and the Japanese delegation withdrew.[42]

The report finally adopted by the Assembly on February 24th, 1933, in accordance with Paragraph 4, Article 15 of the Covenant, embodied the last real attempt by any League organ to bring about a settlement of the Sino-Japanese dispute.[43] It is much too long to be quoted here, but is important enough to merit some analysis. There are four parts to the report. Parts One and Two present a rather detailed account of the development of the dispute before the League of Nations. Essentially, they embody a summary of the first eight chapters of the Lytton Report, supplemented by a resumé of the developments since the preparation of that report. Part Three is entitled "The Chief Charac-

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42. Official Journal, S.S. 112, pp. 14-24.

43. For the report, See Official Journal, S.S. 112, pp. 56-76.

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teristics of the Dispute." First of all, it is asserted that Manchuria has always been an integral part of China, and that Japan, in the early stages of the dispute, did not contest this fact. The tradition of autonomy of Manchuria is expressly noted, but "the independence proclaimed by Marshal Chang Tso-lin at different times never meant that either he or the people of Manchuria wished to be separated from China." Next, an analysis of events before September, 1931, is made, the conclusion being that each of the Parties had legitimate grievances against the other in Manchuria. A solution called for "the employment of a policy of international cooperation. One of the methods of that policy would be that the League of Nations would continue to afford China the technical assistance in modernizing her institutions, with a view to enabling the Chinese people to reorganize and consolidate the Chinese State." (This method has been carried forward considerably under the auspices of the Secretariat since the adoption of the report.) Thirdly, as a characteristic of the dispute, the Assembly asserts that, without excluding the possibility that on the night of September 18th, 1931, the Japanese officers on the spot may have believed they were acting in self-defense, the military operations of that night and subsequently cannot be regarded as measures of self-defense. Fourthly, in regard to "Manchukuo", it is cited as characteristic that the main political and administrative powers of its government are in the hands of Japanese officials and advisers, and that Japan has been alone in recognizing the "State of Manchukuo". Finally, as a general conclusion, the statement is made that "while at the origin of the state of

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tension that existed before September 18th, 1931, certain responsibilities would appear to lie on one side and the other, no question of Chinese responsibility can arise for the development of events since September 18th, 1931." Obviously, this conclusion embodies a thinly-veiled assertion that Japan is entirely at fault for the failure to settle the dispute by non-military, pacific means.

Part Four is the most important division of the report. It is a statement of the recommendations which the Assembly deems just and proper, in accordance with Paragraph 4 of Article 15 of the Covenant. It is subdivided into three sections. The first asserts the principles, conditions and considerations upon which the recommendations are based, and which are essential to any settlement. These principles, conditions and considerations are as follows:

(a) the provisions of the Covenant, the Pact of Paris, and the Nine-Power Treaty should be observed;

(b) the provisions of Parts I and II of the Assembly resolution of March 11th, 1932, should be observed (see above);

(c) the settlement must conform to the principles and conditions laid down by the Lytton Commission, namely,

1. compatibility with the interests of both China and Japan,
2. consideration for the interests of the Soviet Union,
3. conformity with existing multilateral treaties,
4. recognition of Japan's interests in Manchuria,
5. the establishment of new treaty relations between China and Japan,
6. effective provision for the settlement of future disputes,

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7. Manchurian autonomy,
8. internal order and security against external aggression,
9. encouragement of an economic rapprochement between China and Japan,
10. international cooperation in Chinese reconstruction.

The second section embodies the actual recommendations of the Assembly. First of all is the evacuation of the Japanese troops outside the railway zone; this is to be the primary object of any future negotiations. Secondly, it is recommended that all matters of disagreement between China and Japan be settled on the basis of the principles listed above. Thirdly, a possible method of negotiation between the Parties is recommended. Each of them is invited to inform the Secretary-General whether it accepts the recommendations of the Assembly, subject to the sole condition that the other Party also accepts them. To assist the Parties, a Committee is to be formed, under the auspices of the Assembly, and consisting of representatives of the four Great Powers, the United States, Russia, Belgium, Canada, Czechoslovakia, the Irish Free State, the Netherlands, Portugal, Spain and Turkey, subject, of course, to the willingness of each of these Governements to appoint a representative. To enable the Members of the League, after the opening of negotiations, to judge whether each Party is acting in conformity with the Assembly recommednations, the Committee is to report, whenever it thinks fit, on the state of the negotiations, and in any case, within three months after opening negotiations, in regard to the progress made in the evacuation of Japanese troops from Manchuria. Also, the Committee may submit to the Assembly any questions

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relating to the interpretation of Section II of Part Four of the Report. Of course, Japan's failure to accept the recommendations of the Assembly prevented the coming into effect of these negotiations, as of the whole attempt of that body to bring about a just settlement of the dispute.

Section III of this part of the Report specifies that the adoption of the Report by the Members of the League obliges them to refuse to recognize the existing regime in Manchuria, either de jure or de facto, and to take no isolated action with regard to the situation in Manchuria, but rather to continue to concert their action with the other Members of the League and with interested non-Member States. Finally, it requires the Secretary-General to send a copy of the report to the signatories of the Pact of Paris and of the Nine Power Treaty who are not Members of the League, and to inform them of the Assembly's hope that they will associate themselves with the views expressed in the report, and will concert their attitude and action with the Members of the League.

After the character of the discussion in the Assembly, this report seems a discouragingly weak finale. Nowhere does it openly and directly assert that Japan has violated the Covenant and other multilateral treaties. Nowhere does it mention sanctions, except for the non-recognition of the State of Manchukuo, and this in spite of the fact that the use of sanctions was mentioned several times by the representatives of smaller Powers in the Assembly discussions.[44] In short, the report goes just as

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44. See, for example, Official Journal, S.S. 111, p. 45.

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far as the Great Powers were willing that it should go. It must be remembered that Article 15, Paragraph 10, specifies that the approval of all the members of the Council is necessary for the adoption of a report by the Assembly in such a case as this. Consequently, although the smaller Powers could make very extreme statements in the discussion, the official action of the Assembly could not go beyond the limits agreeable to the Great Powers. In this fact lay the essential weakness of the Assembly in this particular case, even in regard to the enlisting of world public opinion. The States whom Japan had no reason to fear were loudest in their condemnation of Japanese aggression, while the States which might have checked Japan very effectively were the most careful and conservative in their statements. Thus it was made clear to Japan that the Condemnation which the lesser States showered upon her in the Assembly could have no practical effects. Thus also it happened that the final report and recommendations adopted by the Assembly were not of a sort to check Japan in the course she had been pursuing for eighteen months. The forcefulness of Assembly action depended finally on the Great Powers; and in this case the Great Powers were not in favor of a policy of any great forcefulness.

A final step taken by the Assembly, after its adoption of the official report and recommendations, should be mentioned, although it has added nothing to the effectiveness of League action in settling the dispute. On February 24th, a draft resolution proposed by the Committee of Nineteen was adopted. By this resolution the Assembly decided to appoint an Advisory Committee to follow the situation, to "assist the Assembly in

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performing its duties under Article 3, Paragraph 5 of the Covenant, and to aid the Members of the League in concerting their action." This Advisory Committee was to consist of the Committee of Nineteen plus the representatives of Canada and the Netherlands, and the Governments of the United States and the Soviet Union were to be asked to cooperate in its work. It was to report and make proposals whenever it saw fit to the Assembly, which was to remain in session, to be convened by its President whenever he decided it was necessary.[45] The invitation to cooperate in the work of the Advisory Committee was declined by the Soviet Union, and accepted by the United States,[46] and on March 15th, 1933, the Committee met, and considered the questions of the export of arms in relation to present conditions in the Far East, and of the application of the undertakings contained in Part Four, SectionIII of the report, dealing with non- recognition of Manchukuo. In both cases, the questions were referred to sub-committees.[47] On June 14th, after report of the Sub-Committee on the latter question, the Advisory Committee decided to send a circular to all Members of the League, calling their attention to the desirability of several measures useful in making effective the non-recognition of Manchukuo, for example, refusing her admission into the Postal Union, according no standing to her passports, or to her consuls. Of course, the various States remained free to do as they chose.[48] In regard

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45. Official Journal, S.S. 112, pp. 24-29.

46. Ibid., pp. 98-99.

47. Ibid., p. 100.

48. Official Journal, S.S. 113, pp. 10-13.

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to the question of export of arms to the Far East, the Committee took no action, and made no recommendations, it being found that inquiries had already been made by League organs in regard to export of arms, and that as a result the Committee could do nothing further in this matter.[49]

This brings to an end the account of the activities of the Assembly and of its subsidiary committees to date, in attempting to bring about a settlement of the Sino-Japanese dispute. That its activities have been unsuccessful is common knowledge, and need not be emphasized here. It should be remembered, however, that the Special Session of 1932-1933 is still legally in session, having never been dissolved, and can, in the event of any new and perhaps more encouraging developments in the dispute, reconvene and again take up the question where it left off. But this is not very likely to happen, at least not in the near future; so the Special Session will probably remain in legal session for some time to come.

Having now finished the record of the Assembly's handling of the Sino-Japanese dispute, can we draw any conclusions as to the efficacy of that body in the settlement of international disputes generally? It must be kept in mind, first of all, that there were several complicating conditions attached to the Sino-Japanese dispute, conditions which to some extent justify the claim that it was not a typical international dispute, of the sort normally expected to appear before an organization like the League for settlement. What those conditions

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49. Official Journal, S.S. 113, p. 8.

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were hasaalready been indicated; whether or not they were the cause of the Assembly's failure to settle the dispute is not certain. At any rate, it cannot be said that because the Assembly failed in the Sino-Japanese dispute, it will fail in every international dispute that may be brought before it.

It is clear, however, from the Sino-Japanese dispute, that the Assembly cannot be expected to be successful in every dispute that may come before it. That it can fail was made discouragingly clear in 1932-1933; and the reason for this is not hard to find. It is the fact that the Assembly lacks power. It lacks the power, first of all, to make a binding decision independent of the wills of its Members. True, in cases under Article 15, the approval of the disputants is not necessary, and only a majority of the other Members of the Assembly, plus all the Members of the Council, can adopt a report and recommendations. In other words, all of the Great Powers, plus a majority of the other Members of the League, must be in agreement before any decision can be taken; and it is not always an easy matter to secure such agreement and still retain real forcefulness in the decision. But even assuming this agreement, the Assembly still has no power of its own to enforce a decision. What enforcement there is to be depends upon the whim of the sovereign Member States. The sole weapon in the hands of the Assembly is that vague thing called "the sanction of public opinion." That it is not always effective was demonstrated in 1932-1933. Without carrying the point any further, the conclusion is clear that if the Assembly (or any other League organ) is to settle all disputes successfully, it must be given more

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of the character of a real international government. An amendment of the League constitution in this direction, however, is anything but likely for some time to come. So any practical evaluation of the Assembly as an agency for the pacific settlement of international disputes must rest on other bases than that of power, recognizing, however, the effects of the absence of power on the whole arrangement.

The Council was, prior to 1932, admittedly the most highly developed international organ for the settlement of disputes not appropriate for arbitration or judicial procedure. Further, it is subject to the same fundamental deficiency of power as the Assembly. So the efficacy of the Assembly's organization and procedure for the settlement of international disputes can best be judged in comparison with the organization and procedure of the Council.

The first outstanding characteristic of the Council as an agency for the settlement of disputes is the promptness with which it can assemble in the event of a crisis. Having only fourteen Members (fifteen provisionally since 1933), most of whom are from Europe, it is obvious that not much time need pass before a meeting can be convened. In the Sino-Japanese dispute, it happened that the Council was just opening a regular session when the crisis appeared. The most notable demonstration of the speed with which the Council can come together was in the Greco-Bulgarian frontier incident, in 1925. On the 19th of October, the shots were exchanged across the frontier. On the 22nd, Greek troops entered Bulgarian territory. On the same date, the Bulgarian Government requested the Secretary-

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General to convoke the Council as soon as possible. On October 25th, the Council met at Paris.[50] Such promptness, obviously, is normally impossible for the Assembly. That it convened as speedily as it did in 1932 was due to the fact that all Members of the League already had representatives in Geneva for the Disarmament Conference. Ordinarily, however, the mere fact that the Assembly has nearly sixty Members would necessitate a greater delay in meeting than is the case where only fourteen Members are involved. So, in regard to promptness in convening, it is clear that the Assembly is at a disadvantage in comparison with the Council.

A second apparent advantage of the Council arises from the same fact that it has a much smaller membership than the Assembly. It is generally felt that a large body is unwieldy and not so well adapted to the efficient conduct of business as one smaller and more compact. Actually, this superiority of the Council over the Assembly is more apparent than real. If the Assembly were to handle a dispute coming before it in plenary session only, there would be much delay, and little efficiency. But there is no reason why the Assembly must remain in plenary session to examine a question. In the Sino-Japanese dispute, as already seen, it turned over the whole question to the Committee of Nineteen, which was parctically just as compact and efficient as the Council. Of course, some time was consumed by discussions in plenary session, but it was so little as to be negligible. The usual practice, when the Committee had pre-

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50. See Official Journal, 1925, July to December.

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pared proposals, was for the plenary body to meet on the same day, and thus no time was lost. It seems, therefore, that in regard to organization from the point of view of efficiency in the conduct of business, the honors are very nearly even as between Council and Assembly.

Thirdly, the Council possesses excellent facilities for the securing of adequate information in regard to disputes which may arise. The Secretariat is always available, with its recognized ability to secure data; and in addition, the Council may in any case set up a Commission of Enquiry to investigate the situation on the spot. Usually, however, disputes have been submitted to the Council under Article 11 of the Covenant, which makes no exception to the unanimity rule, so the consent of the Parties is necessary to institute a Commission of Enquiry when the dispute is being handled under this Article. This was demonstrated in the Sino-Japanese controversy, the Council being unable to set up the Lytton Commission until Japan had expressed her consent. In this particular case, the result was a delay of nearly four months before the Commission could start its investigations on the spot. Turning now to the Assembly, it can be said that that body possesses facilities for the securing of information which are equal in every respect to those at the disposal of the Council. The Secretariat functions just as much for the Assembly as for the Council, and the power to set up a Commission of Enquiry is vested in the Assembly in the same degree as in the Council, perhaps even more so. Disputes can come before the Assembly only under Articles 12 and 15 of the Covenant, and the latter, by making an exception to the unanimity

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rule (Paragraphs 6 and 10) might be regarded as giving the Assembly power to take action without the consent of the Parties. That this would not be in strict accordance with Article 15, which makes the exception only in regard to the report and recommendations to be adopted after conciliation fails, is admitted. But the Assembly, in its first resolution dealing with the Sino-Japanese dispute, laid calim to the power to pass a resolution over the opposition of one of the Parties, and this claim was tacitly admitted by all except the Japanese representative, and even he did not actively oppose it. There is some ground, then, for believing that the Assembly might set up a Commission of Enquiry without the consent of the Parties, and thus possess itself of greater power than the Council has in regard to securing the information which is the necessary basis for just settlement of any international dispute. At least it is clear that the Council has no greater advantages in this respect than the Assembly.

In a fourth respect, the Assembly has an obvious advantage over the Council, in that it is less subject to the criticism of Great Power domination and political manipulation. Of course, in both the Council and the Assembly there are no Star Chamber tactics. The States in dispute are admitted to the deliberationa and permitted to participate in the discussions in both bodies. But the Assembly, by the mere fact of its greater approach to universality, is a better representation of the post-war ideal of "open diplomacy", and consequently its decisions and recommendations are apt to be regarded with more confidence than those emanating from the Council.

Finally, the Assembly has a further advantage over the

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Council as an agency for the settlement of disputes. It must be remembered that for both the Council and the Assembly the most important weapon in their possession to insure the carrying out of their recommendations is the sanction of world public opinion. And in this respect the comparative universality of the Assembly gives that body a more effective hold on world public opinion than is possible for the Council. Obviously, the recommendations of the Assembly will have more standing than those of the Council in the countries which are represented in the former and not in the latter, and will at the same time be no less effective in the States that are members of the Council than the recommendations of the Council itself. In conclusion, then, it would seem fair to state that the Assembly can be expected to show at least as great success in the settlement of international disputes as the Council. Its disadvantage in regard to promptness of convening in event of a crisis is more than counterbalanced by the advantages it possesses by reason of its greater universality. This is especially true with respect to its effectiveness in mobilizing the public opinion of the world in support of justice. As long as this remains the only sanction at the disposal of League organs, the Assembly, because it is in a better position to use it than the Council, will continue to have an important advantage over the latter in the settlement of international disputes.

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CHAPTER VIII - Some Comparisons and Conclusions

Having now completed our account of the organization and working methods of the Assembly, we are in a position to come to some conclusions as to its position within the League, the value and efficiency of its organization and procedure, and finally as to its essential nature. The most profitable method of reaching conclusions in such a case as this is through a process of comparison with similar political organizations. The Assembly is a deliberative body, so for purposes of comparison we must seek other deliberative bodies. The two extremes of such deliberative political organizations to which the Assembly can be compared are the international conference on the one hand, and the national legislature on the other. Of course, neither all national legislatures nor all international conference systems are the same. For instance, the legislature in a unitary system is quite different from that in a federal system; and the ad hoc conference is different from the general conference. But for our purpose here, these differences can be generally neglected, and all legislatures on the one hand, and all conferences on the other, regarded as alike. In fact, conferences and legislatures resemble even each other in some respects, especially in regard to such matters as organization and procedure. The one fundamental distinction between them lies in the possession of real legislative power by the former, and in the absence of any such power in the latter. So in the last analysis, the question of how far the Assembly partakes of the character of an international conference, and how far of the character of a truly parlimentary body, must be decided on the basis of power.

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First, however, it will be profitable to determine, on the basis of what has gone before, in what other respects it is comparable to an international conference on the one hand, and to a national legislative body on the other.

First of all, then, what is the position of the Assembly in relation to the other League organs? As has been seen, in tracing the evolution of the Assembly through the Peace Conference in 1919, it was the obvious intention of those who framed the Covenant that the Assembly should play a decidedly minor and insignificant role in the work and activities of the League. But at its very first session, in the winter of 1920, the Assembly began its march towards supremacy within the League. The two most important steps taken by the 1920 Assembly in nullifying the intention of the framers of the Covenant were its decision to hold regular annual sessions, and its assumption of final control over the finances of the League. On the basis of these two fundamental advances, and assisted by the natural but unforeseen trend of events, the Assembly has since 1920 concentrated in its own hands a steadily more complete control, until now it can safely be asserted that, in relation to the other League organs, the Assembly is in a position quite similar to that occupied by the legislative organ within a national governmental system of the parliamentary variety.

The general divisions of a national governmental system are a judicial organization, a national civil service, a ministry, a cabinet and a legislature. Corresponding th these, the League has the Permanent Court, the Secretariat, the various Technical Organizations, the Council and the Assembly.

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The International Labor Organization, of course, has no counterpart in a national system, but, because of its autonomy in all matters except finances, as noted above, it can be regarded as distinct from the League system, and hence be omitted in this comparison.

In both the national system and the League system, the courts are rightly given a large measure of independence. Although their expenses are voted by the representative body, the latter in neither case makes use of this financial power to exert any unwholesome influence on the judiciary. The national civil service, although directly responsible to the executive, has as its most important functions the furnishing of the legislature with expert advice and service, and the carrying out of its decrees. The theory is that it must exercise no initiative, no policy-forming function, but in actual practice, the members of the civil service, at least of its upper branches, often make suggestions and recommendations to the ministers which become the basis of the policies promoted by the latter in the legislature. This is a natural and unavoidable development, in view of the ever-increasing complexity of modern life, and the growing need for accurate and detailed technical knowledge as the basis for legislative action. The position of the Secretariat within the League resembles markedly that of the national civil service within the national system. While appointed by and responsible to the Council, a great part of the work done by the Secretariat is the result of Assembly decision. Again, while the theory is that the Secretariat should exercise no initiative and should possess no policy-forming function, the

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practice is in the opposite direction. The permanence of the Secretariat, and its consequently greater knowledge of facts and details, place it in a position to play an important part in the evolution of League policies. More than once it has happened that the Secretariat has made informal suggestions to a Technical Organization, which later formed the basis of the recommendations proposed by the Organization for approval by the Assembly. Further, there is some similarity between the positions of the national ministry and the League Technical Organizations within their respective systems. The members of the former, as heads of the various departments, but under the control of the cabinet, have much to do with policy formation; however, their major task is to assist the cabinet in the performance of its executive duties. The League Organizations, taken collectively, fill much the same need within the League system. Appointed by, and under the direction of the Council, each organization works in a special field, and makes proposals which, after approval by the Council, are submitted to the Assembly for final adoption. However, League organizations have no power, as do national ministries, to enforce their decrees. Finally, to some small extent, the Council has a counterpart in national governmental organization. The cabinet in the latter operates mainly as the executive organ, responsible to the legislature for carrying out its decisions, and at the same time playing an important part in directing the work of the legislature, and in preparing proposals and policies for final legislative consideration and approval. In somewhat the same way the Council operates in relation to the Assembly. It is the body which is mainly responsible for the carrying out of Assembly

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decisions. Likewise it plays a leading part in the drafting of proposals and of policies for consideration by the Assembly. But in other respects, the relationship between Council and Assembly is not that of cabinet and legislature. The control of the Assembly over the Council is not comparable to that of a national legislative body over its cabinet. The Assembly can never overthrow the Council in the way, for instance, that the French Chamber of Deputies can overthrow the French Cabinet. The control of the Assembly over the Council is limited to the power of criticism which it exercises in the annual debate on the general report. Furthermore, the Council has several important functions, arising out of the Peace Treaties, with which the Assembly has nothing at all to do, as for example, the holding of plebiscites in certain areas after the War, the administration of the Saar, and the like. Finally, the function of the Council as an agency of conciliation for the settlement of international disputes differentiates it from a national cabinet. In a measure, then, the analogy between the Council and a cabinet is sound, but should not be over-stressed, for fear of leading to erroneous conclusions. With this qualification, however, it can be said with justification that the position of the Assembly within the League has developed since 1920 to the point where it is quite comparable to that of the legislative organ in a national parliamentary system. In other words, the Assembly has come to occupy a predominant position within the League.

In regard to organization, the Assembly seems generally to be comparable to the international conference system,

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although in many respects it resembles a national legislature, and in some few particulars has even advanced beyond the latter.

In the fact of annual sessions, with its important consequences already noted, the Assembly is much advanced beyond any international conference, and approaches the organization of a national legislature. The Pan-American Conference system is the only one existing, with the exception of the Assembly, which has any regularity in its sessions; and even in its case, the sessions are about five years apart, too long to set up any degree of continuity between one session and the next. The Assembly, on the other hand, like a national legislature, holds regular sessions every year, and has as a result been able to establish a remarkable continuity between the sessions. Further, it has only been because of the decision to hold annual sessions that the Assembly has been able to assume final financial control, and to acquire its position of predominance within the League. Similarly, much of the power of national legislative bodies rests upon the continuance of their practice of holding at least annual meetings.

The membership and representation in the Assembly, however, stamp it as an international conference rather than a parliamentary body. Membership in the Assembly, just as in the Hague Conference system of the years before 1914, and as in the Pan- American Conference system still in existence, is restricted to the representatives of the Governments of "fully self-governing States, dominions or colonies." Like other international conferences, the Assembly has no direct connection with the individual citizens of States, nor can it go behind

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the national Governments. So long as a State is a Member of the League, and its representatives have been appointed by the duly authorized Government, regardless of method, the Assembly has no power to exclude them. Furthermore, the equality of all States, great and small, in the Assembly characterizes it as an international conference. The fixing of the number of official delegates permitted each State was an even more complete recognition of the equality principle of international law than existed in the pre-War Hague Conference System, in which there were no limitations on the size of delegations, although only one vote was accorded to each State, as in the Assembly. In the latter body, too, the limitation on the size of delegations has been nullified in practice, so in this respect the Assembly resembles the pre-War conference system.

Again in the character of the delegates, and their general lack of individual freedom, the Assembly resembles an international conference. In most cases, the delegates are government officials, generally from the diplomatic service or the department of foreign affairs; and their freedom of action is limited by specific instructions from their Governments. In both these respects, however, developments have appeared indicating a tendency away from the pre-war conception of the international conference, and towards a more truly parliamentary system. In recent years the member Governments have shown increasing willingness to appoint men and women with expert technical qualifications in particular fields, to represent them in the Assembly. Such men and women require less specific instructions in regard to their fields than would purely govern-

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mental officials, and hence are left more free to act upon their own initiative. Furthermore, as we have seen earlier, instances can be found where even delegates of the governmental type have acted upon their own initiative, signifying at least a small degree of resemblance to the representatives in a national legislative body. As to continuity of representation, the Assembly displays generally no more and no less than a House of Representatives or a Chamber of Deputies. This is only to be expected, in view of the fact that delegations to the Assembly are appointed by national Governments, and hence are apt to be altered whenever the control of the Governments changes hands.

In the matter of offices, the Assembly is generally similar to other international conferences rather than to a national legislative organ. The President of the Assembly, for instance, possesses powers considerably more limited than those of the presiding officer in a national legislature. However, the Assembly chooses its President in a way resembling that used in a national legislature, whereas in the pre-war type of international conference the President was necessarily chosen from the inviting State or from the State on whose territory the conference met. Then there are the Vice Presidencies, which, except for the participation in the General Committee that is associated with them, are purely honorary offices, similar to the vice presidencies of other international conferences. The Chairmen and Vice Chairmen of Committees, chosen by the committees themselves, are also more or less honorary officials, for it requires no great effort or experience to preside over one of the committees of the Assembly. Finally, the basic principle according to

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which the offices and honors of the Assembly are distributed is one applicable in an international body rather than in a national legislature. This is the principle of rotation, which operates quite regularly in all elections made by the Assembly. Thus in this respect too, the Assembly differs from a national legislative body, in which selection of officers is made on the basis of party allegiance rather than rotation.

In relation to committee organization, we find that the Assembly is markedly similar to an international conference in some respects, and to a national legislature in others. As to composition, the committees of the Assembly are identical with those of the Hague Conferences or the Pan-American Conferences. Every State is entitled to representation on each of the regular committees; moreover, the plenary body has nothing to do with the composition of the committees, each delegation selecting its own representatives on each of the committees, and according to any method it chooses. This rule applies, however, only to the six regular committees of the Assembly. In regard to others, the method of composition is much more similar to that in use in national legislatures. The Committee on Credentials and the Agenda Committee, for example, consist of representatives from only a small number of the Member States, and are chosen directly by the plenary body. Furthermore, in the Special Session of 1932, a special committee was chosen in the same way, and consisted of representatives of only nineteen of the Member States. Other special committees, containing representatives of only a small portion of the membership, have been appointed for special purposes in other sessions of the Assembly.

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In 1929, for instance, there were appointed the Committee on Material Arrangements, of five members, and the Committee to examine the Organization of the Secretariat and the Labor Office, of thirteen members. To some extent, the regular committees of the Assembly may be compared to the standing committees, and the others to the select committees, of a national legislature. The former are in both cases formed regularly, to handle the ordinary business of the session; the latter, on the other hand, are set up when and as necessary, to examine special questions which cannot properly be dealt with by one of the regular or standing committees. At any rate, the practice of the Assembly of appointing committees which do not include representatives from every Member State signifies an advance over the practice of older conference systems, and towards that of a national legislature.

Again, in the Extraordinary Session of 1932, the Assembly took another step making its committee organization still more similar to that of a national legislative body. This step was the formation of the General Commission, which in essence was a committee of the whole, of the sort so frequently employed in national parliaments. It must be noted, however, that the Assembly is not apt to find very frequent use for such a body as the General Commission. In a sense, each of the regular Assembly committees is a committee of the whole, containing as it does representatives of all the Member States. Consequently, the Assembly has no need for any agency comparable to the committee of the whole, over and above its regularly organized committees, except on special occasions such as that which arose in 1932.

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In the use of sub-committees, the Assembly has merely continued the practice of pre-war international conferences, which in turn probably derived it from national legislative bodies. The use of joint sub-committees, however, seems to be an advance made by the Assembly beyond the pre-war developments of the conference system. In a sense, the joint sub-committees of the Assembly resemble the joint committees employed in a bicameral system such as the English or American, the purpose in both cases being to secure agreement on measures before they are presented to the plenary body or bodies as a whole. But the analogy should not be overdrawn. The Assembly is not a bicameral body such as the British Parliament or the American Congress. Moreover, the Assembly's joint sub-committees are much more informal than the joint committees of the above-named legislatures. At any rate, this feature of Assembly organization makes for greater efficiency than was possible in pre-war conferences, in that it makes possible the employment of the special talents of members of different committees in the solution of complicated international problems.

In one other respect, the committee organization of the Assembly has advanced far beyond that of the conference systems of the pre-war period. This is in the matter of permanence of committees. For the conference systems of the earlier period, it was impossible to set up permanent committees. The sessions were too infrequent, and the necessary continuity lacking. The Assembly, on the other hand, because of the frequency of and the continuity between its sessions, was in a position to take this forward step. Under what conditions it did so in

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1928, we have already seen. By this step the Assembly made itself akin to a national legislative body rather than to an international conference; in fact, its practically unlimited freedom in the setting up of permanent committees places it in an even more advanced position within the League than that of the legislature in a national government. For example, neither House of the American Congress can continue any portion of itself in any parliamentary function beyond the session without the consent of the other House and the executive.[1] So, where the power of Congress id limited, that of the Assembly is unlimited, in a particular respect.

Finally, in regard to the existence of a real party system, the Assembly reverts back to the international conference, in that, like the latter, its organization is conditioned upon the absence of organized parties. It is this fact, as much as any other, which is responsible for the other differences in organization between the Assembly and anational legislative body. In the latter, officers are elected, committees appointed, and decisions taken, on the basis of parties. In the Assembly, there being no parties, other methods must be employed, namely, the methods found adaptable in previously existing international conferences. Of course, there are certain more or less regular lines of division within the membership of the Assembly, as has already been indicated. But these lines of division can hardly be compared to organized political party lines as found within particular States. In this very important respect, then, the organization of thecAssembly resembles that of an international conference rather than that of a national legislature.

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1. Digest of Rules of House of Representatives, op. cit., p. 247.

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Turning now to the question of procedure, it is found that in some points the Assembly is comparable to other international conferences, in others to national legislative bodies, and in still others to both the international conference and the national legislature. Both these types of political organization have a deliberative function, and as a result they show certain common features of procedure; and the Assembly, being likewise a largely deliberative body, is able to make use of the same common features.

First, as to the method of convening its sessions, the Assembly resembles the national legislature rather than the pre-war type of international conference. Like the former, it has the power itself to fix the date for its regular annual sessions, although in both cases there is the formality of convocation by the chief executive official. Again, in both cases, there is ample provision for the summoning of special sessions in emergency situations; in fact, the Assembly goes farther than a national legislature in this respect, for its special sessions can be convened in more than one way, not depending exclusively on the will of one official, as is the case, for instance, in the American system. Clearly, then, the Assembly, in regard to the procedure for convocation of its sessions, is more comparable to a national legislature than to an international conference.

In the procedure for working out its agenda, however, the Assembly exhibits its kinship to the international conference. The very fact that it has a fixed agenda, drawn up before the opening of the session, differentiates it from a national

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legislature, which has practically unlimited freedom to consider any question of concern to the State which it governs. The method prescribed for the Assembly in the drawing up of its agenda, however, is considerably better than that of the pre-war conference system. For the latter, the inviting State usually had to take the initiative, and seek the approval of the other States that were to participate in the conference. For the former, the initiative is taken by an international rather than a national official; certain items are compulsory; one Assembly may order the inclusion of items on the agenda of the next Assembly, and each Member State may propose new items, which must be included if the proposal is made four months before the session. More important still, the Assembly may add items to its agenda during a session, by mere majority vote, thus approaching somewhat the freedom of a national legislative body. It is here that the Agenda Committee performs a valuable service for the Assembly; by giving preliminary consideration to all items so proposed during a session it saves the plenary body both time and trouble. National legislatures do not as a rule have any such time-saving agency; they might find it profitable to follow the example set by the Assembly in this respect.

Conformity with the practice of both national legislatures and international conferences is exhibited by the Assembly in that its opening meetings are devoted to the preliminary details of organization, such as the verification of credentials, the election of officers, and the distribution of the items on the agenda among the committees. In this respect, then, Assembly procedure is not at all unique. It can be stated, however, that

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the Assembly has developed a considerably greater degree of efficiency in the performance of these necessary preliminary tasks than was shown by the conference systems of the pre-1914 period.

In the annual debate on the report on the work of the League the Assembly has a device wholly peculiar to itself, and enabling it to call into operation the sanction of world public opinion, either against another League organ or against a recalcitrant State, to a degree which would be impossible for any other international conference, either of the past or the present. The practically unlimited freedom of speech in this annual debate gives the delegates an opportunity to discuss any problem of international import which may appear in world affairs. Of course, they can do no more than discuss, for the annual debate ends with no definite action. Thus, in this respect, the Assembly falls between the pre-war international conference, which was limited even as to discussion, to the items on its agenda, and the national parliament, which has unlimited freedom of action as well as of discussion.

Of the special functions performed by the Assembly, that which has to do with the drawing up of international conventions is most illustrative of the advances it has made in regard to procedure over the pre-1914 type of international conference. Of course, the requirement of ratification by the Governments of the Member States is still operative, and acts as a check upon development by the Assembly of a more complete body of international law. Still, the very careful provisions for preparation, negotiation, and adaptation embodied in the

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Assembly procedure are more apt to result in securing the necessary ratifications than the non-continuous, haphazard procedure employed by older conference systems.

In handling its ordinary business, the Assembly follows a procedure generally similar to that of any deliberative body, irrespective of the degree of its power. Items are referred to the appropriate committee before any action is taken in the plenary body; as a general rule, the committees meet when the plenary body is not sitting; discussions in the committees are more business-like, and more informal, than in the plenary body; measures are adopted in committee ordinarily by simple majority vote, as was permitted even in the Hague Conferences of 1899 and 1907. But in the external assistance available from the Secretariat, the Advisory Commissions and the Technical Organizations, the Assembly committees have a very decided advantage over those of other international conferences, and a source of help similar to that possessed by the committees of a national legislature in the various national departments and ministries. Again, the relations between the committees of the Assembly are of a sort that could not be found in any other international conference, but are markedly similar to those between the committees of a national legislature. The predominance of the Fourth or Finance Committee, for instance, is very much like that of the Committee on Appropriations in the American House of Representatives or of the Finance Committee of the French Chamber of Deputies. Such a relationship would be impossible as between the committees of another international conference, which has no independent funds of its own, no appropriations

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to make, and no expenditures to supervise.

Again, in bringing proposals out of committee and before the plenary body, the Assembly follows the method employed both in ordinary international conferences and in some national parliaments, namely, the rapporteur system. Also, the debates in the plenary session are held under much the same rules as operate in any deliberative body, although it should be noted that there is much less discussion in the Assembly on the proposals of its committees than is the case in a national legislature. The chief reason for this seems to be the fact that all members of the plenary body are represented in each committee; hence any proposal that has won its way through a committee can normally be expected to encounter little or no opposition in the plenary body. This is not true in regard to the committees of a national legislature, which contain only a part of the membership of the plenary body, and as a consequence there is much more need for full discussion in the plenary body than is the case in regard to the Assembly.

The character of the resolutions and recommendations of the Assembly cannot be described in any general terms. The examples given previously show that in some cases Assembly resolutions take on almost completely the form of real laws, while in others they are mere recommendations, couched in general and very vague terms, and consequently ineffective. This fact that Assembly decisions run from the one extreme of real laws to the other of meaningless recommendations, would seem to indicate that in some respects the Assembly partakes of the character of a real parliament, and in others of a mere confer-

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ence of diplomats. It is noteworthy that the strongest of the Assembly resolutions are concerned with subjects like procedure, the appointment of committees, and similar matters internal to the League, whereas in questions more directly delated to the sovereign powers of the Member States, such as disarmament, the conduct of mandates and the like, its decisions are weakest.

Moreover, the general operation of the unanimity rule in the Assembly characterizes it as essentially similar to an international conference. The various methods developed to circumvent the full rigor of the unanimity rule in the Assembly have been already indicated; and in so far as they are used, the Assembly is more than a mere conference of diplomats. But as we have also seen earlier, they can never be used to coerce even a single State against its will. However, they can and do operate to prevent one or a few obstructive States from holding back all the others, and consequently give the Assembly a decided advantage over the pre-war type of international conference. Even with this advantage, however, the Assembly is clearly still far from becoming a real world parliament. The elimination of the unanimity rule is the first step necessary, if the Assembly is to develop in that direction.

A final aspect of procedure in which the Assembly has developed considerable farther than other international conferences is contained in its method of doing "follow-up" work. The older conference systems were woefully lacking in this respect. The Hague Conference of 1899, for example, was completely isolated from all other agencies of international organization. It came together, adopted certain proposals, submitted

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them to the States for ratification, and dissolved. No provision was or could be made to follow up the original action taken; no pressure of any sort was used to stir the lethargy of the sovereign States. The Assembly is in a far better situation. The continuity set up by the fact of regular annual sessions, combined with the power of the Assembly to make use of the more permanent League organs to insure success for its policies, enables the Assembly to follow the progress of its original resolutions and recommendations year after year, and where necessary, to use moral pressure through oft repeated urgings until the opposition or the lethargy of slow-moving States is worn down, and success is finally achieved. Of course, the Assembly can in no case, either directly or indirectly, employ more than moral pressure in its follow-up work; but in many cases moral pressure is sufficient to produce results. At any rate, the Assembly is in a better position, in regard to follow-up facilities, than any other international conference.

In its function in connection with the settlement of international disputes not submitted to arbitration or judicial settlement, the Assembly is wholly unique. Neither any mere international conference nor any national parliament has been entrusted with such a function. The settlement of disputes between States, as it is to be effected by the Assembly under Article 15 of the Covenant, is partly an executive and partly a judicial function. Its executive features are embodied in the provision for preliminary attempts at conciliation; whereas the drawing up of the report and recommendations, in the event that

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the attempts at conciliation fail, is essentially judicial in character. Clearly, then, the Covenant, by giving the Assembly a part in the settlement of international disputes, has entrusted that body with a task of a partially executive and partially judicial nature. But as has been seen the Assembly is organized primarily to operate as a deliberative body; hence its resemblance in so many respects to either an international conference or a national parliament. Apparently, therefore, the Assembly might not be expected to be properly equipped to act as an agency for the settlement of international disputes.

That this was incorrect was effectively demonstrated by the Assembly's handling of the Sino-Japanese dispute in 1932-1933. As has been seen, the Assembly was able to overcome the organizational and procedural defects which resulted from its generally deliberative character, and to function in the settlement of the dispute at least as efficiently as the Council could or did. Of course, what measure of success the Assembly did achieve in 1932-1933 was not due solely to itself, but rather to the League system as a whole. Without the valuable assistance of the Secretariat, for instance, in the collecting and compiling of information, or in the printing and circulation of the necessary documents, the Assembly probably could not have functioned at all. But the same thing would be true of the Council. In its case, as well as in that of the Assembly, it is the whole League system which is brought into play, and upon the efficiency of which the success of either the Council or the Assembly depends. That the Council has an advantage over the Assembly in regard to the time required to convene, has

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been indicated. But it should at the same time be remembered that the Assembly, precisely because of its greater universality, is a much more effective agency than the Council for calling into play the sanction of world public opinion; and so long as this remains the only sanction available to League organs, the consequent advantage of the Assembly over the Council will more than outweigh any advantages possessed by the latter.

We return then to the question of power, and hence of the essential nature of the League Assembly. Earlier in this work the assertion was made, on the basis of conclusions reached by various students of the League system, that nothing organically new was created by the Covenant, that it merely represented a coordination and adaptation of the pre-war system of international cooperation, and that essentially the Assembly was nothing more than the most recent and the most advanced embodiment of the international conference system inaugurated before the World War. Now, in the light of our own study of the Assembly, of its position within the League, of its organization and procedure, we can test the validity of these conclusions.

First of all, the absence of any real legislative power in the Assembly over either States or their individual citizens is convincing proof that in essentials the Assembly is quite comparable to the international conference of the years before 1914. The truth of this assertion is further borne out by the equality of voting power of all Member States in the Assembly, and by the general operation of the unanimity rule. The several practices which have developed in the Assembly to circumvent the full rigor of that rule do not alter the fundamental fact

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of its legal force in all matters of importance. Legally, the Assembly has no power whatever to coerce any of its Members; further, it cannot act, except in non-controversial matters like procedure, without at least the tacit consent of all Members present. In addition, the necessity for ratification of its conventional decisions marks the Assembly as essentially nothing more than an international conference. So also does the character of the delegates in the Assembly. Like the delegates of other international conferences, they must act almost always according to specific instructions from their Governments, rather than on their own initiative, as do the representatives in a national legislative body. It is unnecessary to labor the point further; clearly, the Assembly is lacking in the possession of any power comparable to that of a national legislature.

But the moral authority, the influence as contrasted to power, which the Assembly possesses, must not be left out of consideration. The predominance of the Assembly within the League, a predominance much like that of the legislature within a national governmental system, its nearly universal character, the frequency and regularity of its sessions, the smoothness and efficiency of its organization and procedure, all give it an access to and a direction over world public opinion unattained by any other international organization, either before or since the War. In fact, the moral pressure in the hands of the Assembly can become on occasion very much akin to a real legislative power. One or a few States, especially if they were smaller States, would find it extremely difficult to maintain an obstructive position in defiance of the united opinion of

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all the other Member States. Furthermore, the wide publicity attending Assembly activities gives that body a sort of progressive pressure on all the Member States, in that it tends to make them approve measures of international cooperation, rather than have to explain and defend before the world community an obstructionist and retrogressive attitude. In this moral influence, therefore, the Assembly possesses a distinct advantage over any previously inaugurated international conference, an advantage which may perhaps constitute the first hesitant step beyond the mere international conference stage of development, and towards the accumualtion of a power such as might be found in a real world parliament.

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APPENDIX -- Rules of Procedure of Assembly [1]

Rule 1

1. The Assembly shall meet in general session every year at the seat of the League of Nations commencing on the second Monday in September, provided that the second Monday does not fall later than the tenth. If it does fall later than the tenth, then the session will begin on the first Monday. (Originally this paragraph read: "The Assembly shall meet in general session every year at the seat of the League of Nations commencing on the first Monday in September.")
2. Sessions may also be held at such times as the Assembly at a previous meeting decides, and at such times as the Council by majority vote decides.
3. If a Member of the League considers a session to be desirable, it may request the Secretary-General to summon a special session of the Assembly. The Secretary-General shall thereupon inform the other Members of the League of the request, and enquire whether they concur in it. If, within a period of one month from the date of the communication of the Secretary-General, a majority of the Members concur in the request, a Special Session of the Assembly shall be summoned.

Rule 2

Sessions of the Assembly shall be held at the seat of the League, or in exceptional circumstances at such other place

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1. As now in force, that is, as amended up to 1933. Where amendments have been made, attention will be called to them in the text.
For original Rules, see Records, 1st Assembly, Plenary Meetings, pp. 236-241.

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as is designated by the Assembly, or by a majority of the Council, or approved by a majority of the Members of the League.

Rule 3

1. Sessions of the Assembly shall be summoned by the President of the Council acting through the Secretary-General.
2. The summons shall be addressed to the Members of the League not less than four months before the date fixed for the opening of the session. In exceptional circumstances, however, the Council by majority vote may sanction a shorter period.
3. Nothing contained in Paragraph 2 of this Rule shall affect the provisions concerning special cases contained in the Covenant.

Rule 4

1. The Agenda shall be drawn up by the Secretary-General, with the approval of the President of the Council. The complete Agenda shall be circulated as nearly as possible four months before the date fixed for the opening of the session.
2. The Agenda of a General Session shall include: (a) a Report upon the work of the Council since the last session, (b) a Report by the Secretary-General upon the work of the Secretariat and upon the measures taken to execute the decisions of the Assembly, (c) all items whose inclusion has been ordered by the Assembly at a previous session, (d) all items proposed by the Council, (e) all items proposed by a Member of the League, and (f) the Budget for the next fiscal period, and the report on the accounts of the last fiscal period.
3. Any Member of the League may, at least one month before the date fixed for the opening of the Session, request the in-

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clusion of additional items on the Agenda. Such items shall be placed on a supplementary list, which shall be circulated to the Members of the League at least three weeks before the date fixed for the opening of the Session. The Assembly shall decide whether the items on the supplementary list shall be included in the Agenda of the Session.

4. The Assembly may in exceptional circumstances place additional items on the Agenda, but all consideration of such items shall, unless otherwise ordered by a two-thirds majority of the Assembly, be postponed until four days after they have been placed on the Agenda, and until a committee has reported upon them.

4 bis. (added in 1932 Assembly) No proposal for the placing of a new question on the Agenda of the Assembly may be signed by more than fifteen Members of the League.

5. (added in 1925) No proposal for the modification of the allocation of expenses for the time being in force shall be inserted in the Agenda, unless it has been communicated to the Members of the League at least four months before the date fixed for the opening of the Session.

Rule 5

1. Each Member shall communicate to the Secretary-General, if possible before the date fixed for the opening of the Session, the names of its Representatives, of whom there shall not be more than three. The names of Substitute-Representatives may be added.

2. Each Representative shall, as soon as possible, and preferably before the opening of the Session, present his credentials to the Secretary-General.

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3. A committee of eight members for the examination of credentials shall be elected by the Assembly by secret ballot. The committee shall report without delay.

4. Any Representatives to whose admission objection has been made shall sit provisionally with the same rights as other Representatives, unless the Assembly decides otherwise.

Rule 6

1. In addition to the Substitute-Representatives mentioned in Paragraph 1 of Rule 5, the Representatives of a Member of the League attending the Assembly, acting together as a delegation, may appoint substitutes. Any such appointment shall be communicated in writing to the President.

2. A Substitute-Representative appointed by a Member of the League may take the place of a Representative without nomination by the Representatives.

3. A Substitute-Representative or a substitute may take the place of a Representative who is absent from a meeting of the Assembly or is temporarily prevented from taking part in its deliberations, but if the Representative is present at the meeting, the Substitute-Representative or the substitute is only entitled to assist him.

4. A Delegation may appoint for service on a committee a deputy or technical advisor other than those referred to in the above paragraphs of this Rule; but a deputy or advisor so appointed shall not be eligible for appointment as Chairman or Rapporteur, or for a seat in the Assembly.

Rule 7

1. The Officers of the Assembly shall consist of a President

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and of six Vice Presidents, together with the Chairmen of the main committees of the Assembly, who shall be ex-officio Vice Presidents of the Assembly. These officers shall form the General Committee.

2. The President shall be elected at the beginning of each Session.

3. Until the election of the President, the President of the Council shall act as President of the Assembly.

4. The election of the Vice Presidents shall take place at one of the early meetings of the Session.

Rule 8

1. The President shall announce the opening, suspension and adjournment of meetings of the Assembly, direct the work of the Assembly, ensure observance of the Rules of Procedure, accord the right to address the Assembly, declare the debates to be closed, put questions to the vote, and announce the results of the voting.

2. In the general direction of the work of the Assembly, in the constitution of such committees as the Assembly decides to create, in deciding on communications to be made to the Assembly, in the framing of the agenda for each meeting, and in the determination of the order of priority for its various items, the President shall be assisted by the General Committee.

Rule 9

1. The Secretary-General shall be responsible for the organization of the Secretariat of the Assembly and of the Secretariat of any committees set up by the Assembly.

2. The Secretary-General may be assisted or replaced at the meet-

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ings of the Assembly by a deputy or deputies. The Secretary-General or one of his deputies may at any time on the invitation of the President bring before the Assembly reports concerning any question which is being considered by the Assembly, and may be invited by the President to make verbal communications concerning any question under consideration.

Rule 10

1. It shall be the duty of the Secretariat, inter alia, to receive, print, circulate and translate documents, reports and resolutions; to translate speeches made at meetings, to draft, print and circulate the Minutes of the Session; to have custody and the proper preservation of the documents in the archives of the Assembly; to publish reports of meetings; and generally to perform all other work which the Assembly thinks fit to entrust to it.

2. All documents emanating from the Assembly shall be circulated to the Governments of the Members of the League.

Rule 11

1. The Public shall be admitted to the plenary meetings of the Assembly, by cards distributed by the Secretary-General.

2. The Assembly may decide that particular meetings shall be private.

3. All decisions of the Assembly upon items on the Agenda which have been taken at a private meeting, shall be announced at a public meeting of the Assembly.

Rule 12

A list of attendance at each meeting of the Assembly shall be kept by the Secretariat.(Deleted by vote of the 1932 Assembly.)

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Rule 13

At the beginning of each meeting, the President shall present to the Assembly all communications addressed to the Assembly or to the League, the importance of which appears to him to warrant such action.

Rule 14

1. The Assembly shall establish such committees as it thinks fit for the consideration of items on the Agenda. Items of the same nature will be referred to the same committee.

2. The Assembly shall not decide items on the Agenda in full meeting until the report of a committee upon them has been presented and circulated, unless the Assembly itself, by a two-thirds majority, determines otherwise.

(Addition to Paragraph 2 by 1922 Assembly): Decisions involving expenditure shall be subject to the rules laid down in the Regulations for the Financial Administration of the League of Nations.

Reports by a committee involving expenditure must indicate whether the expenditure will constitute part of the general expenses of the League or whether it will be recovered from the Members of the League particularly concerned.

No resolution involving expenditure shall in any case be voted by the Assembly before the Finance Committee shall have expressed its opinion on the advisability of the proposed expenditure from the point of view of general budgetary resources.

3. Each Delegation may designate one member and may nominate technical advisers for each committee.

4. Each committee shall appoint its Chairman and Rapporteur.

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5. Each committee may appoint sub-committees which shall elect their own officers.

6. Each committee shall meet in private unless it decides otherwise. It shall keep a Register of its discussions, and Minutes, which shall be published at the earliest possible date, but not until they have been approved by the committee. They may at any time be consulted by any member of the Assembly.

7. Every Representative shall have the right to place before any committee any communication which he considers should be made to it, but no Representative may, without specific leave from the Chairman, speak at a meeting of any committee of which he is not a member.

8. The Secretary-General or his deputies may make to any committee or sub-committee any report or verbal communication which he or they may consider desirable.

Rule 15

1. No Representative may address the Assembly without having previously obtained the permission of the President.

2. Speakers shall be called upon in the order in which they have signified their desire to speak. The Chairman and the Rapporteur of a committee may be accorded precedence for the purpose of defending or explaining conclusions arrived at by their committee. The same principle shall apply to any member of the Council.

3. The President may call a speaker to order if his remarks are not relevant to the subject under discussion. If necessary, he may direct the speaker to resume his seat.

4. When a motion is under discussion, a Representative may arise to a point of order, and such point of order shall be immediately

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decided by the President in accordance with the Rules of Procedure.

5. The Assembly may limit the time allowed to each speaker.

Rule 16

1. Speeches in French shall be summarized in English, and vice versa, by an interpreter belonging to the Secretariat.

2. A Representative speaking in another language shall provide for translation of his speech into one of these two languages.

3. All documents, resolutions and reports circulated by the President or the Secretariat shall be rendered in both French and English.

4. Any Representative may have documents circulated in a language other than French or English, but the Secretariat will not be responsible for their translation or printing.

5. Any Member of the League or any group of Members may require that all documents and publications of the League shall be regularly translated into, and printed and circulated, in a language other than French or English, but shall in such case defray all necessary expenses.

Rule 17

1. Resolutions, amendments and motions must be introduced in writing and handed to the President. The President shall cause copies to be distributed to the Representatives.

1bis. (added by vote of 1932 Assembly) - No resolution, amendment or motion may be signed by more than fifteen Members of the League.

2. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Assembly unless copies of it have

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been circulated to all Representatives not later than the day preceding the meeting.

3. The President may, however, permit discussion and consideration of amendments or motions as to procedure without previous circulation of copies.

Rule 18

1. During the discussion of any question, any Representative may move the previous question, or the adjournment. Any such motion shall have priority in debate. In addition to the proposer of the motion, two Representatives may speak in favor of, and two against the motion.

2. Parts of proposals shall be voted on separately, if a Representative requests that the proposal be divided.

3. A Representative may at any time move the closure of the debate, whether any other Representative has signified his wish to speak or not. If application is made for permission to speak against the closure, it may be accorded to not more than two speakers.

4. The President shall take the sense of the Assembly on the motion for closure. If the Assembly decides in favor of closure, the President shall declare the closure of the debate.

5. When a number of proposals are before the Assembly, the proposal furthest removed in substance from the principal one shall be voted on first.

6. If an amendment striking out part of a proposal is moved, the Assembly shall first vote on whether the words in question shall stand part of the proposal. If the decision is in the negative, the amendment shall then be put to the vote.

7. When an amendment adds to a proposal, it shall be voted on

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first, and if it is adopted, the amended proposal shall then be voted on.

Rule 19

1. Except where otherwise expressly provided in the Covenant or by the terms of a treaty, decisions of the Assembly shall be taken by unanimous vote of the Members of the League represented at the meeting.

2. All matters of procedure at a meeting of the Assembly, including the appointment of Committees to investigate particular matters, shall be decided by a majority of the Members of the League represented at the meeting.

3. All decisions taken in virtue of these Rules shall be considered as matters of procedure.

4. A majority decision requires the affirmative votes of more than half of the Members of the League represented at the meeting.

5. For the purposes of this Rule, Representatives who abstain from voting shall be considered as not present.

Rule 20

The Assembly shall vote by "Appel Nominal" except when the Members of the League represented at the meeting agree that the method of voting shall be by Heads of Delegations rising in their seats, and except in cases provided for in Rule 21. "Appel Nominal shall be taken in one of the following ways:

(a) (added by 2nd Assembly) The name of each Delegation shall be called, and one of its members shall reply Yes, No or Not Voting. The result of the vote shall be recorded and announced to the Assembly.

(b) The Delegation of each Member of the League represented

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at the meeting shall be provided with two voting tickets, on which the name of the country is written, one red and one blue, the former being Aye, the latter No. The voting tickets shall be deposited in an urn placed near the President's platform. When all the votes have been collected, the President shall declare the ballot closed, and the General Committee shall proceed to count the votes. The individual votes shall be communicated to the Assembly, and the result shall be announced by the President.

Rule 21

1. All decisions relating to individuals shall be taken by secret ballot.

2. If, when one person only is to be elected, no one person obtains at the first ballot an absolute majority of the votes, an entirely new ballot shall be taken; but on this ballot voting shall be confined to the two candidates who obtained the largest number of votes at the first ballot. If there is at this ballot an equality of votes for the two candidates, the elder candidate shall be declared elected.

3. When a number of elective places of the same nature are to be filled at one time, those persons who obtain an absolute majority at the first ballot shall be elected. If the number of persons obtaining such majority is less then the number of persons to be elected, there shall be a second ballot to fill the remaining places, voting being restricted to the unsuccessful candidates who obtained the greatest number of votes at the first ballot, not more than double in number the places remaining to be filled. Those candidates to the number required to be elected, who receive the greatest number of votes at the second ballot shall be declared elected.

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Rule 22

In case of equality in any voting other than that referred to in Rule 21, in which a majority is required, a second vote shall be taken in the course of the next meeting; this meeting shall be held within forty-eight hours from the date on which the first vote was taken, and it shall be expressly mentioned on the agenda that the second vote will be taken on the matter in question. Unless there is at the subsequent meeting a majority in favor of the proposal, it shall be considered as lost.

Rule 22a (added by 1928 Assembly)

1. Members whose Representatives are to sit on the Council as non-permanent members of that body shall be selected by the Assembly by secret ballot.

2. Where several seats are to be filled, election shall be made by voting a list of names. Any ballot-paper containing more names than there are seats to be filled shall be null and void.

3. No member shall be elected at the first or second ballot unless it has obtained at least an absolute majority of votes. If, after two ballots, there still remain seats to be filled, a third ballot shall be held on a list consisting of the candidates which obtained the greatest number of votes at the second ballot, up to a number double that of the seats still to be filled, and those shall be elected who obtain the greatest number of votes.

4. If two or more members obtain the same number of votes, and there is not a seat available for each, a special ballot shall be held between them; if again there is an equal number of votes, the President shall decide between them by drawing lots.

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Rule 23

1. The President may declare a meeting to be adjourned or suspended, if a proposal for adjournment or suspension made by him does not meet with objection from the Assembly.

2. The President shall declare the adjournment or suspension of a meeting upon a vote to this effect by the Assembly.

Rule 24

The General Committee, in cases where it deems it necessary, may revise resolutions adopted by the Assembly, changing their form but not their substance. Any such changes shall be reported to the Assembly.

Rule 24

The verbatim report of each meeting shall be drawn up by the Secretariat and submitted to the Assembly after approval by the President.

Rule 26

The Resolutions adopted by the Assembly shall be circulated by the Secretary-General to the Members of the League within fifteen days after the termination of the Session.

Rule 27

These Rules of Procedure shall apply to the proceedings of the committees of the Assembly.

Rule 28

These Rules of Procedure may be altered by decision of the Assembly; but no such alteration shall be made except upon majority vote of the Assembly, taken after a committee has reported on the proposed alteration.

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