LEAGUE OF NATIONS.

DOCUMENTS
of the
PREPARATORY COMMISSION
FOR THE DISARMAMENT CONFERENCE
entrusted with the
PREPARATION OF THE CONFERENCE
FOR THE REDUCTION
AND LIMITATION OF ARMAMENTS.

SERIES VII.

MINUTES
of the
THIRD SESSION OF THE COMMITTEE
ON ARBITRATION AND SECURITY.
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Chairman: His Excellency Dr. Beneš (Czechoslovakia).

**Argentina** .......................................................... His Excellency M. José Maria Cantiolo.
**Belgium** ............................................................... His Excellency Baron Rolin Jaquemyns.
**British Empire** ..................................................... The Right Honourable Lord Cushendun.
**Bulgaria** ............................................................. His Excellency M. Bogdan Morhoff.
**Canada** ............................................................... Dr. W. A. Riddell, M.A., Ph.D.
**Chile** ................................................................. His Excellency M. J. Valdés-Mendeville.
**China** ................................................................. M. Chuan Chao.
**Colombia** ............................................................. Dr. Efrain Gaitán-Hurtado.
**Cuba** ................................................................. His Excellency M. G. de Blanck.
**Czechoslovakia** ...................................................... His Excellency Dr. F. Veverka.
**Finland** ............................................................... His Excellency M. R. Holsti.
**France** ............................................................... His Excellency M. Paul-Boncour.
**Germany** .............................................................. Dr. Ernst von Simson.
**Greece** ................................................................. His Excellency M. Nicolas Politis.
**Italy** ................................................................. His Excellency General A. de Marinis Stendardo di Ricipigiano.

**Japan** ............................................................... His Excellency M. N. Sato.
**Netherlands** .......................................................... Dr. V. H. Rutgers.
**Poland** ............................................................... His Excellency M. François Sokal.
**Roumania** ............................................................ His Excellency M. Constantin Antoniaede.
**Kingdom of the Serbs, Croats and Slovenes** .................. His Excellency M. C. Fotitch.
**Spain** ................................................................. His Excellency M. B. Östen Undén.
**Sweden** ............................................................... His Excellency Mehmed Munir Bey.
**Uruguay** ..............................................................

**Union of Socialist Soviet Republics** ......................... M. Boris Stein (Observer).
AGENDA.

1. Second reading of the model treaties drawn up at the second session (document C.P.D. 108).

2. Study of the suggestions of the German delegation for the Prevention of War, on the basis of the memorandum prepared by M. Rolin Jaequemyns, Rapporteur (document C.A.S. 40).

3. Study of draft model bilateral treaties.

4. Continuation of the examination of the Articles of the Covenant in accordance with the resolution of the Assembly of 1927:

   Report of the Joint Committee responsible for examining the scheme of financial assistance to States victims of aggression.
FIRST MEETING.

Held on Wednesday, June 27th, 1928, at 11 a.m.

Chairman: M. Beneš (Czechoslovakia).

1. Proposal by the Chairman regarding the Programme and Procedure of the Committee.

The Chairman, Gentlemen,—In opening the first meeting of the third session of the Committee on Arbitration and Security, I would first of all bid you all welcome, and in particular the Turkish delegate, who is here with us for the first time.

I shall not dwell at length upon the importance of the work which we have already accomplished and that which remains to be done; I shall immediately pass on to our third session's programme, which is somewhat heavy. I shall therefore only touch briefly upon the various points in our programme and explain at the same time the methods of work which I consider to be best in order to achieve rapid and satisfactory results. I beg my honourable colleagues to be so good as to inform me of any suggestions they might consider better than those which I am about to submit to them.

The work accomplished in our second session has been warmly commended by the Preparatory Commission for the Disarmament Conference, as well as by the Council of the League of Nations. The Preparatory Commission, indeed, adopted on March 19th last the following resolution dealing with the work of our second session:

"The Commission takes note of the progress made by the Committee on Arbitration and Security and of that Committee's decisions concerning its next session and the programme of work therefor.

"The Commission expresses its satisfaction with the results achieved and its approbation of the general spirit in which the Committee carried out the work.

"According to precedent, the report of the Committee on Arbitration and Security on the work of its second session, together with the Minutes of that session, will be communicated to all Governments. The Commission seconds the recommendation adopted by the Committee that these documents should be transmitted in sufficient time to allow of their discussion at the next session of the Assembly."

Moreover, the Council of the League of Nations, taking note of the recommendation we had put forward — which, as you have just heard, was supported by the Preparatory Commission — decided, on the motion of the Roumanian representative, to place the proposals of the Commission on Arbitration and Security upon the agenda of the Assembly (Annex 1).

This decision should be for us a valuable stimulus. We should also be greatly encouraged in our work by the fact that two countries have already — even before its final adoption — made use of one of our model conventions. Greece and Roumania signed, on March 21st, a Treaty of Non-Aggression and for the Pacific Settlement of Disputes modelled on the one we have proposed.

The agenda of our present session includes:

1. Examination on second reading of the model conventions which we framed at the last session;
2. Preparation of bilateral treaties;
3. Examination of the German suggestions;
4. Examination of the question of financial assistance;
5. Examination of any proposals the Turkish delegation might care to submit.

As regards the second reading of the model conventions, I thought it best, in order to expedite our work, to ask the Secretariat to submit to you a preliminary study which has been circulated.

The Finnish delegation has also sent us observations which have been communicated to you (Annex 2).

I think it might be well — and this is the first proposal I have to submit to the Committee — that any other delegations which might desire to submit observations on the model conventions framed at the last session should communicate them to us to-day in writing, so that the Drafting Committee — the appointment of which I am going to propose — should be able to proceed to-morrow to the revision of the text of the Conventions.

It is of course understood that delegations which are unable to submit their observations in writing to-day, for examination by the Drafting Committee, will be able to submit any observations they desire to make either in the Drafting Committee or subsequently at the
plenary meeting. In making this proposal, I am merely actuated by the desire to facilitate and expedite our work as much as possible. I may add that this was the procedure we adopted at our last session.

As regards bilateral treaties, I believe that the best method would be to wait until the model multilateral conventions have been approved on second reading. It will then be easy to make the necessary corrections in order to transform them into bilateral treaties.

The German suggestions have been dealt with by M. Rolin Jaequemyns in a remarkable Memorandum (Annex 8, V, d), and I think you will all agree with me in commending the impartiality as well as the acumen and wisdom of our Rapporteur. Presently, I shall have the honour of inviting him to speak in order to explain to us at this first meeting the principles by which he was guided in this work.

For the examination of the German suggestions, I would propose that the same procedure should be adopted as for the other questions. Any delegations which desire to submit written observations will perhaps be so good as to hand them in before to-morrow afternoon. They would be examined at a plenary meeting if necessary, and then referred to the Drafting Committee. On Friday the Committee, at a plenary meeting, might proceed to a discussion of M. Rolin Jaequemyns' Memorandum, and of any proposals which may have been submitted. The great importance of the German suggestions calls for a thorough examination, in which I hope a large number of the delegations here represented will take part.

The fourth question on our agenda, that is, financial assistance, has been discussed by a Joint Committee composed of delegates of the Financial Committee and of our own Committee. The Chairman of the Joint Committee, M. Veverka, will explain to you the results of those discussions at our next meeting. After M. Veverka's statement has been heard, I propose to ask the various delegations which have considered this question to be so good as to send to the Bureau in writing any observations they may desire to submit. The question may then have to be examined again by the Drafting Committee, and would be referred back to the plenary meeting for final decision.

At the last meeting of the Preparatory Commission, the Turkish delegation made certain suggestions which you will find on page 237 of the Minutes of the Preparatory Commission, Series VI.

To sum up, the methods of work I would propose are the following:

Plenary meetings will be held for general discussions and the final adoption of texts which have already been prepared. The Drafting Committee will be appointed to examine the general observations submitted, either at plenary meetings or in writing, by the various delegations. This Committee will draw up a report on each question and will submit it to the Committee, which, at a plenary meeting, will examine it and take a final decision.

The Drafting Committee, as was the case at the last session, will then appoint a Committee of Three which will have to examine the legal aspect of the various proposals.

Plenary meetings may be held as soon as the Drafting Committee has prepared reports to submit to the Committee.

This procedure, which is the one which was adopted at the preceding session, seemed the most appropriate in order to facilitate and expedite our work. I beg you to give me your opinion on this point.

The procedure was adopted without observation.

2. Appointment of the Drafting Committee.

The CHAIRMAN. — I venture to propose that a Drafting Committee be appointed composed as at the preceding session. As you may remember, this Drafting Committee included the following delegations: Argentine and Belgium, Finland, France, Germany, Great Britain, Greece, Italy, Japan, Netherlands, Poland. The Chairman and the Vice-Chairman of the Committee on Arbitration and Security were also members of the Drafting Committee.

This proposal was adopted.

3. Statement of the Turkish Representative.

MUNIR BEY (Turkey). — Mr. Chairman: I thank you for the courtesy you have shown to my country's delegation on this Committee. The presence of this delegation is due to a kind invitation addressed to the Turkish delegation at the session of the Preparatory Commission for the Disarmament Conference — an invitation which Turkey accepted with pleasure. The participation of Turkey in the Committee on Arbitration and Security is due to the same circumstances and considerations which led Turkey to take part in the Preparatory Commission.

I can assure you of my country's ardent desire to see the work of this assembly crowned with success.

As the discussion proceeds, the Turkish delegation will venture to offer certain observations, particularly in regard to the points already mentioned at the meeting of the Preparatory Commission on March 19th.
The CHAIRMAN. — We shall not begin the general discussion immediately because, according to the procedure we have just adopted, we must consider these suggestions at one of the next plenary meetings. The Rapporteur, however, M. Rolin Jaequemyns, will give us a summary of his report.

M. Rolin Jaequemyns (Rapporteur). — On rising to address the assembly at the Chairman's kind invitation, I have a first duty to perform. I must thank the Chairman for the extremely indulgent terms in which he expressed to you his opinion on the memorandum which I have had the honour to submit to the Committee.

I have another duty to fulfil: namely, to thank the Committee for its confidence in entrusting me with the preparation of this memorandum. I was unable to fulfil this duty at the end of the last session, since it terminated very rapidly — as is the way with all our sessions — and I was under the impression that, if I had addressed the assembly then, even to thank it, I should have been more indiscreet than grateful. The Chairman has said that I am going to give you a summary of my report. As the document is not a very long one, any summary which I could give would be little more than a repetition of the wording of the document itself. I shall therefore merely explain to you the general lines on which I prepared it and what my intentions were.

In the first place, I was mindful of the method adopted by M. Holsti, M. Politis and M. Rutgers, and I endeavoured to follow, as best I could, these valuable examples which had already been set before I had the honour to be appointed by my Government as a delegate to this Committee.

In these circumstances, I felt I was not called upon to make a report. Therefore, although appointed Rapporteur, I felt I was not called upon to prepare a report in the strict sense of the word, but a memorandum, which is a very different matter. The report may come later. In this memorandum, I have endeavoured faithfully to reproduce the ideas expressed, beginning with the statements of M. von Simson himself: I have then set out the arguments advanced in support of the German delegation's suggestions and have also summarised the objections raised thereto, the doubts and fears which were expressed. Reading between the lines of this memorandum, you may possibly gather my own opinion, though it was not my intention to express an opinion at all. The object of a veritable report should be to state, in support of a proposal, the reasons for which the proposal may be approved and also to explain the reasons for which certain things have been done because they were held to be possible, and certain other things have been left undone because they were held to be too difficult. In the present case, for instance, I would not for a moment suggest that, if suggestion No. I is approved, suggestion No. III must also be approved forthwith. There is a very great difference between suggestion No. I, which only refers to disputes or disagreements; suggestion No. II, which concerns the danger of war; and suggestion No. III, which provides for cases in which hostilities have already broken out. In this connection, I would refer to the question of supervision which applies mainly to suggestions II and III. I am of opinion that, if no control is organised, no appreciable result will be obtained, but I admit that the organisation of supervision adds one more difficulty to those already existing. Moreover, I do not think it necessary to draw the Committee's attention to the seriousness of this problem.

My conclusion is very briefly this. After studying the German suggestions, I am firmly convinced — and I hope you will share my conviction — that something useful can be accomplished in this direction.

The action to be taken on these lines cannot for the present be complete, but I think it would be very unfortunate if nothing at all were accomplished. For my part, I intend to do everything I can in the meetings of the Drafting Committee and at the plenary meetings to make sure that the inherent difficulties of the case shall not prevent us from adopting forthwith certain resolutions which might then be submitted to a higher competent organ of the League.

The Chairman. — I should like to thank M. Rolin Jaequemyns for the explanations he has just given us. I shall go even further and say that he is right and I was wrong, in that the document he has signed is not a report but a memorandum. It is, in fact, our Committee's practice to prepare the way for discussion by means of a memorandum and to embody its conclusions in a report.

M. von Simson (Germany). — You will doubtless not think it strange that I should wish to say a few words at this juncture.

I should like first of all to join with the Chairman in thanking the Rapporteur for the admirable work he has accomplished. This memorandum has been prepared with the clear-mindedness of a lawyer and the breadth of view of a statesman, for M. Rolin Jaequemyns is both. It contains a very detailed analysis of all questions connected with the German suggestions, I am also glad to note that the Rapporteur has arrived at the conclusion that our suggestions are entirely in keeping with the Covenant of the League. M. Rolin Jaequemyns and I differ on certain points as regards the possibility of putting these suggestions into effect. I am rather more optimistic than he is, and hope to convince him — as I hope to convince the other members of the Committee — that the difficulties must not be exaggerated and that they can be overcome. M. Rolin Jaequemyns, moreover, has himself indicated in his memorandum the methods by which certain difficulties may be eliminated.
I do not think I am wrong in saying that the memorandum is animated by a desire to arrive at a practical result, and the Rapporteur's last words have confirmed my view. I should also wish to state here and now that as in the past I attach great importance to our suggestions—to all of them. We still believe that they constitute a very practical method of forestalling war, and even preventing all danger of war. I do not propose to recapitulate the reasons for which my country particularly desires to see the work of the Committee on Arbitration and Security progress; I can only repeat that our standpoint remains unchanged. You are all aware of the great importance we attach to the possibility of forestalling war by means of international conventions.

The efforts of our Rapporteur have defined with even greater clearness the questions raised in our suggestions. I sincerely hope that this memorandum will serve as a basis for discussion and make it possible for our Committee at this session to obtain a practical result, which could be submitted for the approval of the Assembly, according to the procedure adopted in the case of decisions reached in other meetings.

The meeting rose at 12.10 p.m.

SECOND MEETING

Held on Friday, June 29th, 1928, at 6 p.m.

Chairman: M. Beneš (Czechoslovakia).

5. Financial Assistance to States Victims of Aggression. Statement by the Chairman of the Joint Committee.

M. Veverka (Chairman of the Joint Committee).—In submitting the report which has been distributed (Annex 8, IV, e) I think I ought first to remind you that the Assembly recommended the preparation of a scheme to be submitted with a view to its adoption either by a Disarmament Conference or by a special conference convened for the purpose.

When the Council placed the scheme of financial assistance upon our Committee's agenda, it authorised us to consult the Financial Committee and to request if necessary to make technical enquiries on the matter.

At its last session, our Committee saw fit to leave it to the Financial Committee to continue its work and asked it to refer the question to the Committee on Arbitration and Security as soon as political questions arose.

The Financial Committee having reached the stage at which collaboration with our Committee appeared necessary, the latter approved the constitution of a Joint Committee consisting of members of the Financial Committee and of our own Committee. It is the report of that Joint Committee which is now before you.

As I had the honour to preside over the discussions in the Joint Committee, my colleagues will perhaps permit me to make a few general observations.

There were three main ideas which guided us in our work. The first was to render the scheme of financial assistance as effective as possible; the second, to facilitate its acceptance by as many States as possible; the third, to harmonise the scheme with the Covenant.

From the financial point of view, the situation is now clear enough. You will find in the Joint Committee's report the points which the Financial Committee unanimously recommends as a basis for the working-out of technical details.

It is now for the Committee on Arbitration and Security to pass judgment on the Financial Committee's proposals, from the political point of view. I may be allowed to draw your attention to a few points which seem to me particularly deserving of your attention.

At our last session, M. Rolin Jaequemyns submitted observations on the extent of the obligations incumbent upon signatory States. The Financial Committee has tried to take note of these remarks by recommending the fixing of a maximum up to the limits of which each of the signatories would guarantee the service of the loan.

As you have probably observed, the field of application of the scheme as contemplated would extend to all wars and all threats of war. Accordingly, in the view of the Financial Committee, financial assistance would also be employed as a method of preventing war.

The Council would be entirely free to graduate the measures provided for in the scheme. In the event of a threat of war, it might confine itself to issuing a warning or to measures in the nature of a demonstration; for instance, it might intimate to one of the parties involved that, if it took certain steps of an aggressive character, the Council would unhesitatingly enforce the scheme of financial assistance for the benefit of the other party.

According to the Financial Committee, financial assistance would be brought into operation by a unanimous vote of the Council (minus the parties to the dispute). The discussion of this point in the Joint Committee revealed different points of view on the following matters: (1) the value which it would be desirable to give to the Council's decisions; (2) the application of Article 4, paragraph 5, of the Covenant.
On the one hand, insistence was laid upon the necessity for making the Council’s decision binding upon all signatory States and of obtaining from signatory Members of the League and not Members of the Council an undertaking not to sit on the Council when this decision was taken.

On the other hand, the opinion was expressed that it was important to leave to the signatory States the right to decide for themselves after the Council had taken its own decision.

On this matter, it has been rightly observed — this is in my opinion an essential point — that the guarantee provided by the rule of unanimity in the Council is not of equal value for all the signatories. It would be far more substantial for those which are permanent Members of the Council, since they would be sure that no scheme of financial assistance would ever be enforced against their will.

Doubts were expressed as to the possibility of departing from the general provision contained in Article 4, paragraph 5, of the Covenant, and it was pointed out that, even in the most serious cases, the Council’s decisions could not be absolutely binding. You see therefore that we must continue our enquiries so as to elucidate the questions at issue. At the present stage in our work it is, I think, almost impossible to take any final decisions in a matter so important and so pregnant with consequences as financial assistance. Without any wish to prejudge the discussion that will have to take place, I would propose that, for the moment, we confine ourselves to an exchange of general views.

The Joint Committee’s report has not yet been communicated to Governments and therefore many delegations here present cannot know their Governments’ views.

I think too that we should do well to communicate the result of our discussions to the Financial Committee so that it may give us its opinion from the financial point of view upon the ideas expressed in our Committee.

New points to which our discussion may give rise would be combined with those in the Joint Committee’s report to form a provisional report for submission to the Assembly. This report would set forth our Committee’s opinion and mark the great importance we attach to this question of financial assistance and the need for our pursuing its study.

The CHAIRMAN. — We have just listened to the statement by the Chairman of the Joint Committee on its work. You will certainly agree with me in thinking that the Joint Committee has done a very useful piece of work and that it has succeeded in elucidating the points which deserve our attention, and more particularly in indicating the difficulties with which we are faced.

I must thank the members of the Joint Committee very heartily for what they have done to facilitate our task. As regards the procedure to be adopted for our discussion, you will certainly agree with M. Veverka. The question of financial assistance is of a political as well as of a financial character. It is very complicated and exceedingly important, and that is why it claims our very close attention.

The time at the Committee’s disposal during the present session is very limited and will not allow us to enter into all the details — some of them very delicate — connected with this question. Moreover, as M. Veverka has rightly observed, the Governments have not yet had time to take cognisance of the Joint Committee’s report; nor are we ourselves in a position to ask their opinion at the present stage of our work.

We should therefore do best to be content with an exchange of quite general views and not attempt to take any final decisions during the present session. I can only support M. Veverka’s suggestion and propose a general discussion, the results of which, together with those already achieved, will be embodied in a report which we should submit to the Assembly, at the same time insisting upon the necessity for further study. The Assembly would transmit it for discussion to one of its Committees. In all probability, the Committee on Arbitration and Security would then have to submit concrete proposals.

Accordingly, if you think fit, and if the members of the Committee desire at the present stage to express their Governments’ point of view, we can begin a general discussion at once.

I propose first to appoint a Rapporteur who, at the next meeting, will submit to you a draft report for the Assembly. I propose as Rapporteur M. Veverka, Chairman of the Joint Committee. M. Veverka’s report to the Committee could be discussed at a plenary meeting on Tuesday or Wednesday next.

Lord CUSHENDUN (British Empire). — I do not wish to intervene as regards the procedure, except to this extent. So far as I am able to follow the proposals which you have made, I do not think that, at the end of the suggested procedure, much progress would have been made. It appears to me that what we really want, in the first instance, is a technical scheme drawn up by financial experts. The Committee will remember that I expressed the support of my Government on the general principle of this proposal, but I said that I could not express any final opinion upon it until I had had a financial scheme drawn up which I should be in a position to submit to my Government at home, especially having in view the Treasury, which is the technical department concerned. We shall have to have that financial scheme sooner or later, and although there are very interesting and important political questions set out in this report, it really will only become of first-rate importance when we have decided whether
a practical scheme can be evolved. I do not think that, if we ask a Rapporteur to draw up a report now and then submit that to the Assembly when it has been discussed by this Committee on Tuesday or Wednesday, we shall serve any very useful purpose. Neither this Committee nor the Assembly is a body competent to state definitely from the financial point of view whether the scheme can be carried out or not.

It appears to me, therefore, that we shall be, I will not say wasting time, but certainly not making the best use of our time by having that complicated series of reports, first by one body and then by another. I think we should do very much better if we could get the Financial Committee — I do not know whether they have the time; I know they are very much pressed — to place before us a definite technical scheme of finance, either in the form of a Convention or in the form of a financial statement which we could all submit to the Treasury departments of our several Governments in order that they could judge whether or not it is a scheme which they could support.

If it turned out that it was a scheme which the Governments could all support on financial grounds, then it would be the logical moment for discussing these various political or quasi-political questions which are raised in this report as to the particular way in which the Council could call into play the machinery for the loan, whether or not the Council is to decide by a majority, and whether the signatories which are not members of the Council should be asked to join the Council for the particular business. All these are important matters which at some time or other we shall have to decide, but surely it is putting the cart before the horse to discuss them before we have decided whether or not a practical financial scheme can be evolved.

M. Veverka (Chairman of the Joint Committee). — I quite understand Lord Cushendun's feelings in the matter. The most practical method would obviously be to have a complete scheme worked out by the Financial Committee. But this is not where the difficulty lies; our colleagues on the Joint Committee have assured us that the members of the Financial Committee consider that the question is definitely settled from the financial point of view. They are willing to prepare a detailed scheme, but first of all they desire the Committee on Arbitration and Security to settle certain questions, the most important of which are: whether the threat of war is or is not to be taken into account — in other words, whether Article 11 of the Covenant is to be invoked and whether this scheme is to be automatically brought into force after a unanimous decision by the Council. I fear, therefore, that, if we refer the matter back to the Financial Committee before we have answered these questions, we shall be moving in a vicious circle.

It therefore seems necessary that the Committee on Arbitration and Security should take a decision or refer the matter to the Assembly for discussion by the competent Committee. It would then be possible, in the light of the decisions taken, to draw up the financial scheme.

The CHAIRMAN. — With reference to M. Veverka's observations, I should like to add that this is the first time the very complicated questions which have been raised in regard to the problem of financial assistance have come before the Committee. An essential point to be settled is whether the scheme of financial assistance is to be brought into effect by a unanimous decision of the Council, excluding the parties to the dispute.

The following political question also requires to be settled: whether the Committee on Arbitration and Security should study this question immediately, or whether, having regard to the particularly grave nature of this problem, it would be preferable to defer it to a later session.

I am inclined to think that, even if we decided to deal with this question at the present session, it would be difficult for us to discuss it at any length, because the Committee on Arbitration and Security has already very important questions to settle at this session; it has to pass the second reading of the model treaties on arbitration, security and mutual assistance, and has also to examine the German suggestions.

For these reasons, we thought that Governments should be given an opportunity of expressing their views upon this matter. We should thus have had a combined report containing the explanations of the Financial Committee and the observations of the Joint Committee on the political aspects of the matter. The Committee on Arbitration and Security would then have been able to take a decision at its next session.

M. Valdés-Mendeville (Chile). — I quite agree with the procedure suggested by the Chairman and, like M. Veverka, I see the vicious circle which prevents our following the most logical method proposed by Lord Cushendun. But I am very much afraid that the majority of the delegations here are not in a position to give the views of their Governments in regard to the substance of the question. I think, however, it would be desirable for the Committee on Arbitration and Security to give a certain amount of guidance. It must not be forgotten that the members of the Joint Committee were, to some extent, the mandatories of the Committee on Arbitration and Security and of the Financial Committee; only two members of our Committee, M. Rutgers and myself, spoke in the discussion, because the other members were M. Veverka, Chairman of the Joint Committee, and the author of the proposal.

We do not know whether the Committee on Arbitration and Security approves of the attitude we have adopted. We therefore think it desirable that this Committee should give some indication of its views, so that the Assembly may have before it not only the Joint Committee's report.
Lord Cushendun (British Empire). — I quite agree with the proposal that you have suggested, Mr. Chairman, and I have no wish to press on the discussion at the present moment, but I should like to say that, speaking for myself, and I can of course only speak for myself, I do not see any prospect of my being able to express an opinion any more at a later date than I can now. M. Veverka has told us that if we were to ask the Financial Committee now for a scheme we should be in danger of moving in a vicious circle, but I cannot follow that reasoning. He speaks as though we already had a definite financial scheme prepared by the Financial Committee before us. If that is so, it must be embodied in some document that I have not seen. I have as yet seen no such scheme.

I look forward to the way in which this scheme of financial assistance will have to work. A very important body of opinion is the money market in the various centres, and the money market in London (and I can, of course, only speak for London) will not care in the least about the opinion of this Committee or the opinion of the Assembly; what they will look at is whether or not the financial scheme is a sound one. In order to arrive at an opinion from that point, they will look first of all at a scheme which must be prepared some time or other by the Financial Committee and then at the report upon that scheme by our own Treasury. Therefore it seems to me that, unless we have the material upon which the Treasuries of the various countries must express an opinion and upon which the money markets must act if the scheme is ever to materialise, we are really beating the air in the meantime. I have no objection to doing that, but let us realise that we are beating the air and that we are not promoting a scheme of financial assistance to prevent aggression and war. That we shall not do until we have got a definite financial scheme before us by experts.

M. Veverka (Chairman of the Joint Committee). — I desire in a few words to reply to Lord Cushendun. I should like to invoke an authority, Sir Henry Strakosch, who is particularly qualified to speak for the money market on this question and who represented the Financial Committee in the deliberations of the Joint Committee.

Sir Henry Strakosch stated that it was impossible for the Financial Committee to work out any plan until it knew who was going to put this scheme into effect, that is to say, until a definite political reply had been given to a political question. In particular, the Committee would have to know whether financial assistance was to come into force by the unanimous vote of the Council, excluding the parties to the dispute. That is the vicious circle to which I previously referred.

At the end of his proposal, Sir Henry Strakosch states that, if the Joint Committee is unable to reach an agreement on this point, it should ask the Committee on Arbitration and Security to settle it, because it is important that it should be decided.

M. Rutgers (Netherlands). — The proposed procedure was contemplated from the outset in the Financial Committee’s report, of which an extract was communicated to the 1927 Assembly. The Financial Committee stated that, “if the Council desired to adopt such a scheme, the Financial Committee would be glad to have an opportunity of considering further the elaboration of the detailed scheme of which the general outlines have been sketched above.” In introducing its plan, the Financial Committee stated that, should the Governments decide to adopt a scheme of this nature, they would first have to reply to certain questions which the problem involves, such as the definition of the victim of aggression, the method of determining the aggressor, the right of different States to participate in the scheme, the maximum limit of the guarantee, etc.

The Financial Committee believes that it has given us the broad lines of the scheme and that these should be accepted before it can go on to elaborate the details.

The Financial Committee stated that: “Should the Council desire to adopt such a scheme...” The Council replied that it was not for them to take a decision and that the question should be referred to the Assembly, by whom it was subsequently referred to the Committee on Arbitration and Security.

What the Financial Committee asked for in June 1927 still remains to be done, and is mentioned in the Joint Committee’s report, which states that: “The Financial Committee recommended that the technical details of the scheme of financial assistance should be worked out on the following lines...” These outlines are similar to those indicated in the report of June 1927. It seems to me, therefore, that we must first adopt certain political decisions and then we must ask the Financial Committee to elaborate the detailed scheme.

The Chairman. — I think this discussion has already produced very useful results. It shows us where we stand in regard to this matter and what we now have to do. The discussion has shown us that the Financial Committee has already accomplished some very important work and that we are almost on the verge of being able to formulate concrete proposals. The possibility of drawing up a Convention on the matter has already been discussed, but it will be necessary to take certain political decisions before this question can be definitively examined. These decisions must be taken either directly by the Governments or by some competent organ of the League of Nations. It is most desirable that we should avoid a procedure which would simply result in referring the question backwards and forwards from one committee to another. We have now reached the stage where a decision must be taken. I do not think, however, that it is possible for Governments to express an immediate opinion on the matter; decisions can hardly be taken until after the Assembly, when the Governments will have had an opportunity of seeing what has already been accomplished. But it is quite clear that our Committee will have to reply to the questions raised.
I therefore propose that we should proceed in the same way as we have done in regard to the Conventions and with reference to the suggestions of the German delegation, — i.e., the various principles involved should be examined and the delicate questions of law elucidated by a Drafting Committee, which might propose a final solution to the Committee on Arbitration and Security. I do not think this work could be undertaken during the present session, and it appears preferable to postpone the matter until after the Assembly. In any case, the minutes of our discussion will be included in the final report to the Assembly, and the Governments will thus see what questions call for replies. I propose that the examination of the text of our report to the Assembly, which will embody the present discussion, should be postponed until Tuesday or Wednesday.

The procedure proposed by the Assembly was adopted. M. Veverka was appointed Rapporteur.

6. Communications by the Chairman on the Progress of the Work of the Drafting Committee.

The Chairman. — The Drafting Committee has reviewed all the model conventions that have been drawn up. The Committee of Three, which was instructed to study certain amendments proposed in the Drafting Committee or submitted in writing by various delegations, has completed its work. The Drafting Committee is at the moment engaged upon a final revision of the text of the treaties. We think that it will be able to submit these texts of model treaties to the Committee on Monday morning, when they will be adopted at their second reading.

The meeting rose at 7.30 p.m.

THIRD MEETING

Held on Saturday, June 30th, 1928, at 4 p.m.

Chairman: M. Beneš (Czechoslovakia).

7. German Delegation’s Suggestions. Discussion on Procedure and on Suggestion No. V.

Suggestion No. V. — These obligations might constitute the object of an agreement or of a protocol which would be open for signature by all States Members and non-members of the League of Nations, and which might come into force separately for the several continents, in a way similar to that provided for in the Draft Treaty of Mutual Assistance of 1923.

Questions submitted by the Rapporteur with reference to Suggestion No. V.

1. Should the above-mentioned agreements take the form of an open protocol, or general or regional conventions, or even separate agreements?

2. In each of the above-mentioned cases, could the agreements in question include States not members of the League?

3. In the case of an open protocol or general convention, should this come into force separately for the several continents in a manner similar to that provided for in the Draft Treaty of Mutual Assistance of 1923?

The Chairman. — You have before you the memorandum by M. Rolin Jaequemyns. At the end of this document, you will find certain questions which, in his opinion, are raised by the German delegation’s suggestions.

The point is whether we are to enter forthwith into a general discussion on the memorandum as a whole and on all the German suggestions, or whether, seeing that we have already had two exchanges of general ideas on the German suggestions, we shall go on at once to discuss the specific questions raised by the Rapporteur. If we proceed to discuss the questions immediately, we shall have to decide whether to begin with the first suggestion or the fifth. In other words, we have to settle the preliminary question of the directions to be given to the Drafting Committee — whether it is to draft a general treaty or a multilateral treaty.

In regard to this item on our agenda we shall follow our usual procedure. Having discussed it in plenary session and stated the views of our Governments, we shall instruct the Drafting Committee to prepare a draft. At the opening of the first meeting of this session, I asked the delegations to hand in their proposals or objections in writing. So far we have received only two memoranda — one from the Netherlands Government (Annex 3) and one from the Swedish Government (Annex 4).

M. von Simson (Germany). — I am willing to accept the Chairman’s suggestion that we should proceed forthwith to discuss the questions in M. Rolin Jaequemyns’ memorandum.
I think it would be a good thing to maintain the order adopted by the Rapporteur, which is also the order of the German suggestions, and I would ask you to do so. It seems to me that we must decide what is to be the subject-matter of a convention before considering the question — very important though it obviously is — of the scope of that convention.

Lord Cushendun (British Empire). — I quite agree that the most convenient procedure would probably be not to indulge in a general discussion, but to take the various points one by one. I am not quite sure, though, that it would be the most convenient to take them in their present order, for this reason: it appears to me that the last of the suggestions is one that to a certain extent governs all the others. When we were dealing with this matter in March, I indicated my view, which remains the same, with regard to a general protocol, and I heard a report — I do not know whether it is correct — that the honourable delegate for Germany would not insist upon a general protocol, but would be quite satisfied with drawing up a form containing these proposals, which could be accepted either as a bilateral treaty or as a multilateral treaty. That will modify my view very much. I would look on the suggestions with at least a much more benevolent neutrality if it were only a question of a model treaty which anybody might sign. If, on the other hand, the suggestion No. V to draw up a general protocol were decided upon, then I am afraid that I should have to express rather more opposition than I desire to do, unless it is necessary, to some of the earlier proposals. I would suggest, if M. von Simson does not object, that we should decide first of all whether or not it is a general protocol that is to be signed; we should then know how to deal with the other suggestions.

As regards the suggestion of referring the matter to a Drafting Committee, of course that the original suggestion of starting with suggestion No. V, at all events on general grounds, I shall prefer to begin with suggestion No. V, and that will make the discussion unnecessarily long.

I would therefore urge that Lord Cushendun’s suggestion be adopted.

M. Sato (Japan). — I was very glad to hear Lord Cushendun’s remarks. I myself had felt that special importance should be attached to suggestion No. V. It is quite correct to say that the trend of the discussion will be determined by the form which it is proposed to give to the draft embodying the German suggestions. If the Committee decides to make it a regional or bilateral treaty, I shall not feel called upon to take part in the discussion on each point in the questionnaire. If, on the other hand, it is not decided what form is to be adopted, I shall perhaps have to be continually breaking in, and that will make the discussion unnecessarily long.

I also think that there is no need to repeat the whole of the general discussion which we have already conducted at the first reading; the best method would be to take the various points in the German suggestions in turn. I agree with the British delegate, however, that it would be preferable to begin with the last suggestion, namely whether it is expedient to draw up a general agreement. We have just heard a suggestion from the Japanese delegate to the effect that bilateral or regional agreements might be better. I would point out, however, that the observations to be made on the different points will vary considerably according to whether we contemplate proposing to the parties a general or multilateral agreement or a bilateral agreement.

General de Marinis (Italy). — I support Lord Cushendun’s proposal for the reasons given by him and by M. Sato and apparently shared by M. Paul-Boncour.

M. von Simson (Germany). — As far as I can make out, we are already in the middle of a discussion on suggestion No. V. I am bound to admit that I would rather have taken the suggestions in their original order, but since our colleagues seem to have a strong preference for beginning with suggestion No. V, at all events on general grounds, I shall do the same. Accordingly, I shall repeat what I said at the last session — with, if I remember rightly, the utmost emphasis — that our idea was that our suggestions should be embodied in a protocol open for signature by all countries. I said this on February 29th, 1928, with the object of preventing any possibility of misunderstanding:

“Our suggestions are not submitted for insertion in bilateral or regional treaties. They have a wider basis. We do not think it is necessary to wait for a large number of States to adhere to such a protocol for it to be brought into force, but we very strongly desire to see as large a number of States as possible adhere to the protocol.”

I also agree with M. Rolin Jaequemyns that the importance of these engagements depends largely on the number of States which accept them.

We originally contemplated a protocol open to all, but, as I have already said, we shall not press this point. At the same time, I am bound to observe that, if these provisions were only embodied in bilateral conventions, they would be of no value. I shall be satisfied if we proceed as in the case of the other treaties — I mean if we instruct the Drafting Committee to draw up a model collective convention without specifying whether the collectivity it embraces is to be very large or very small.
I hope that it will be very large and that a great number of countries will accept these provisions, but I do not wish to lay it down as an essential condition that the convention should be signed by a certain number of States. I should like a draft collective convention to be prepared, as has already been done in the case of the other proposals. The Governments would then be free to say whether they wished to sign that convention or not.

I would remind the representative of the British Empire that, referring to Convention A — the General Convention on Conciliation and Arbitration, he stated that Great Britain would be unable to sign such a Convention, but he made no objection to the Drafting Committee’s preparing a draft.

M. Rolin Jaequemyns (Rapporteur). — In reading my memorandum, you will have realised that I have no reason to be surprised at the objections offered. I was well aware that certain difficulties would be raised in connection with a protocol open for signature by all countries, or a convention intended to have necessarily a very general scope. Our experience in the League has shown us that, more than once, drafts have been rejected because of their too general character. States which would have been prepared to assume certain obligations towards a certain number of other States have hesitated to assume those obligations towards all other States. We can see that this question arises again for several Governments. I therefore think that we should begin by deciding that there is no question of an open protocol. The author of the suggestions, moreover, has himself agreed to this. I share his view, on the other hand, on the subject of bilateral treaties. Even if a number of them were to be concluded, such treaties would scarcely conduce to the object we have in view. If we were only going to succeed in drawing up a model bilateral treaty, it would be better to abandon the idea of giving effect to the German suggestions. Indeed, if we are not going to make a general convention, we must at all events make a convention to which as many States as possible will adhere. M. von Simson has referred to a collective agreement, meaning an agreement which, though not universal, would embrace a large number of parties. On the other hand, I have no use for regional agreements, because the matter with which we are dealing is not one that interests certain regions more than others.

I think that we might then adopt the suggestion made by the representative of the German Government, namely, that a model collective treaty should be drawn up. This being agreed, we might discuss the various questions in the order in which they are presented.

M. Sokal (Poland). — There are two possible procedures. The first consists in taking the German suggestions point by point so that each delegate can express his opinion; the second consists in considering in the first place what is to be the final form of our conclusions. Since it appears from the discussion which has just taken place that the second alternative is preferred by the Committee, I shall not re-open the debate on this point provided it is clearly understood that the Committee’s decision is conditional. Personally, I could not agree to one form or another without having first reached a decision on the substance of the matter. It must therefore be clear that we cannot take a final decision on the form of the draft to be prepared by the Drafting Committee until we have considered the substance of the general suggestions.

The Chairman. — The honourable representative of Poland is perfectly right. No final decision can be taken on a question of this nature until the substance of the question has been examined. We will therefore provisionally instruct the Drafting Committee to draw up a model collective treaty, and we will return to the question after that.

M. von Simson (Germany). — I agree to this procedure.

M. Sokal (Poland). — I must thank you, Mr. Chairman, for your kind reception of my proposal. In order to make the matter quite clear, however, I would like to ask you whether those are all the instructions that the Committee on Arbitration and Security is giving to the Drafting Committee.

The Chairman. — As regards the question of form, yes. As regards the substance, we are going to discuss the points one after another, taking one by one the final questions in the memorandum of M. Rolin Jaequemyns.

8. German Delegation's Suggestions. Discussion on Suggestion No. I.

Suggestion No. I. — In case of a dispute being submitted to the Council, the States might undertake in advance to accept and execute provisional recommendations of the Council for the purpose of preventing any aggravation or extension of the dispute and impeding any measures to be taken by the parties which might exercise an unfavourable reaction on the execution of the settlement to be proposed by the Council.
Questions submitted by the Rapporteur with reference to Suggestion No. I.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to lay down "conservatory measures" for the purpose of preventing any aggravation or extension of a dispute between States?

2. Should such conservatory measures be left entirely to the discretion of the Council, or should the powers of the latter be restricted in conformity with the following principles, or with one or more of those principles?

(a) In all questions left by international law to the exclusive jurisdiction of a State, the latter will retain its liberty of action (e.g. Customs tariffs, expulsion of aliens);

(b) Conservatory measures may not be ordered when satisfaction may be given for the injury by the payment of ordinary compensation or by some other national form of reparation;

(c) The Council will only have power to take conservatory measures if there is a danger of war.

M. Rutgers (Netherlands). — M. Rolin Jaequemyns’ observations on Suggestion No. I in the body of his memorandum begin with these words: ‘Suggestion No. I aims at provisional measures which might be in contemplation could only relate to the actual subject of the dispute. It might be as well to add this restriction to the first question laid before us and to read it as follows: ‘Should the Council have power in virtue of an agreement to be concluded between States to lay down ‘conservatory measures’ touching the actual subject of the dispute’ for the purpose of preventing any aggravation or extension of a dispute between States?’ I think the question will be clearer if expressed in this form.

M. Rolin Jaequemyns (Rapporteur). — It seems obvious to me that any conservatory measures which might be in contemplation could only relate to the actual subject of the dispute and could not have any final character. In my view, the expression “conservatory measures” says all there is to say, and if we were to add “touching the actual subject of the dispute” people might ask exactly what we meant. I think, moreover, that the Drafting Committee might take M. Rutgers’ observation into account as far as possible in the final wording, but we cannot adopt a formula on the spur of the moment.

The Chairman. — This is a question of detail which might be referred to the Drafting Committee. As M. Rutgers is a member of the Drafting Committee, he will, no doubt, see that the question is not overlooked.

Lord Cushendun (British Empire). — I presume we are not to be rigidly tied to the observations of the Rapporteur. We are taking the German suggestions in order. For example, the Rapporteur suggests that the powers to be given to the Council might be restricted in conformity with certain principles. It is quite possible we may think they should be governed by other considerations altogether. I take it that it will be open to us to suggest that.

The Chairman. — I am sure we all agree with Lord Cushendun. It is quite clear that, when discussing any particular point, we are free to touch on other questions or even to make general observations. We shall follow the logical and practical order of the questions as set out in the memorandum; but it is understood that we can extend the scope of the debate.

M. Paul-Boncour (France). — The first question in M. Rolin Jaequemyns’ admirable memorandum seems to me to be very well expressed, because it bases the conservatory measures on an agreement to be concluded between States. From this point of view, I can trace a continuity — which is what I am always looking for — between the findings of the Committee of the Council in 1927, which were subsequently adopted by the Assembly and by the Council and have become a part of the constitution of the League, and the first German suggestion as interpreted by the Rapporteur.

In the findings of the Committee of the Council, it is laid down that, in the event of a dispute arising out of only one of the paragraphs of Article 11 — this is a very important point — the Council shall prescribe conservatory measures and shall request the parties to notify it of their agreement; but the efficacy of the conservatory measures and the selection of those to be adopted is thus made conditional on an agreement being concluded between the parties at the time of the dispute. The importance of the German suggestion as interpreted by M. Rolin Jaequemyns is that the agreement between the parties is not deferred until the dispute has arisen, but is reached in advance.

I do not wish to call in question the decision we have just reached, but in view of the difficulty in a procedure like the present of avoiding expressing one’s thoughts as they present themselves during the discussion I would ask one question. Since in this case these conservatory measures are based on an agreement concluded prior to the dispute, is it really desirable to drop the idea of bilateral agreements entirely? I quite agree that a more general agreement is highly desirable, and indeed necessary, but I feel that in certain cases it might be an advantage to contemplate establishing the agreement referred to in the first suggestion, even in a bilateral form. It is when a dispute is submitted to the Council that the conservatory measures can come into operation; their importance becomes clear when conciliation and
arbitration proceedings are undertaken; the very words "conservatory measures" add to the clarity of the proposal, inasmuch as there is an analogous principle in private law, where the judge, though he is there to give a decision, at the same time endeavours to take all necessary provisional measures to prevent the case being settled out of court before judgment is given. Apart from collective arbitration conventions, which form the principal subject of our discussions here, many States have concluded, or are now concluding, or are contemplating concluding, bilateral treaties of conciliation and arbitration among themselves. I think that provision for conservatory measures or for a previous agreement between the parties on this subject may be an important feature of these treaties. Consequently, I do not think that we should wholly dismiss the idea of bilateral agreements, though this should not, of course, in any way affect the question of the collective agreement.

The CHAIRMAN. — I think M. Paul-Boncour is quite right and I would like to thank him for his remarks. I have thought about this matter myself, but, as I did not wish to prolong the discussion, I reflected that we should probably arrive at the same result as in the case of the other treaties.

While maintaining our original decision, we might perhaps ask the Drafting Committee to consider the possibility, after drawing up the first treaty, of drafting a bilateral or multilateral treaty, the text of which we would then examine in plenary session. I think M. von Simson and the Rapporteur will agree to this.

M. ROLIN JAEQUEMYNS (Rapporteur). — I would ask leave to add a few words to what M. Paul-Boncour has said. I agree that the text might also serve for a bilateral treaty, but the latter would be so similar to the collective treaty we should have to draw up that I think the Drafting Committee might be spared the necessity of finding a separate formula. It would be sufficient to mention the matter in the report.

M. PAUL-BONCOUR (France). — My intention was to dispose of any idea that the matter might be unimportant.

M. POLITIS (Greece). — There is one question of principle that I should like cleared up, because it seems to me to be of appreciable importance in connection with all the questions before you.

The agreement we are contemplating between two or more States is designed to enable the Council to exercise a certain jurisdiction in the matter of provisional or conservatory measures. What, however, would be the juridical nature of such an agreement? Would it give the Council a jurisdiction that it does not at present possess? Or would it simply mean accepting in advance the consequences of a jurisdiction which the Council does already possess? I am led to raise this question by the most interesting remarks of M. Paul-Boncour. Having in view one of the sections of Article 11, he says that it would be particularly important that any measures the Council might decide to propose to the parties should be accepted by them in advance under a previous agreement; in that case the system of conservatory measures could come into operation when occasion arose without encountering any difficulties.

It is not only in connection with one of the paragraphs of Article 11 that the question of provisional or conservatory measures may arise. It may also arise under any of the other sections of Article 11, and in particular under Article 15, in which case the jurisdiction of the Council is infinitely more important. The case under Article 15 is that of a conflict which has already arisen and of which it may be particularly urgent to prevent any aggravation; it would readily be understood that any conservatory measures which the Council might contemplate would have in such a case to be taken at once if they were to be effectual.

I should like to know what, in the minds of the authors of the German suggestions and also in the Rapporteur's mind, is the true juridical nature of this agreement between the States regarding the preparatory or conservatory measures taken by the Council.

M. VON SIMSON (Germany). — I quite understand why M. Politis has raised this question, which I regard as very important. It may have arisen owing to the formula selected by the Rapporteur. M. Rolin Jaequemyns puts the following question:

"Should the Council have power, in virtue of an agreement to be concluded between States, to lay down conservatory measures?"

The idea is substantially the same as that expressed in the German suggestions, but the formula we used was as follows:

"The States might undertake in advance to accept and execute provisional recommendations of the Council."

I can tell M. Politis quite definitely that the German Government did not in the least intend that new powers should be vested in the Council; the idea is simply that States should assume, by a previous convention, the obligation of carrying out any recommendations the Council might make in the exercise of the functions already entrusted to it by the Covenant.

M. ROLIN JAEQUEMYNS (Rapporteur). — The highly important question raised by M. Politis is dealt with in the section of the memorandum which concerns the conformity between the German suggestions and the Covenant.
The second paragraph of the chapter reads as follows:

"The German suggestions, however, go even further. The fundamental idea lies in the proposal that States should assume an explicit undertaking in advance to accept the Council's recommendations."

There is therefore no question of extending the powers of the Council, but only of admitting that States parties to the agreement to be concluded shall undertake mutually to carry out the recommendations of the Council.

May I be allowed to refer also to another paragraph of the memorandum, which is as follows:

"From the standpoint of sanctions, equally valuable results might be anticipated. A State that refused to obey a recommendation of the Council would place itself in a very serious position. It would be violating a definite and specific international undertaking and would thereby provide the Council, as already shown, with valuable evidence to be used when the latter came to determine the aggressor, and, if necessary, to set in motion the machinery of sanctions."

And, on the other hand, I thought it necessary to raise in the memorandum the question whether the proposed system might not create difficulties as regards the application of the Covenant of the League.

And here is the reply:

"What would happen if a State actually violated undertakings of the nature contemplated in the German suggestion? The matter would be brought before the Council in virtue of one of the Articles of the Covenant — Article 11 in the first instance. The Council would be in possession of additional evidence (violation of an international obligation under the convention in question) when deciding what arrangements should be made or what measures should be adopted. The normal working of the machinery of the Covenant, however, would not thereby be affected."

The above explanations will, without doubt, convince you that no more in my mind than in that of the German delegate was there any question of extending the powers of the Council as regards the nature of its recommendations.

M. SOKAL (Poland). — I only wish to say that the Polish Government, after careful examination, is generally favourable to the German suggestions. As regards suggestion No. I, the question raised by M. Paul-Boncour regarding the possibility of a bilateral as well as a multilateral treaty seems to be a fair one. I would like now to consider the other question asked in the memorandum as follows:

"Should such conservatory measures be left entirely to the discretion of the Council or should the powers of the latter be restricted in conformity with the following principles or with one or more of those principles?"

The question raised by our Rapporteur is therefore whether the Council should have full discretion or whether its powers should be limited as regards the decision to be taken in such emergencies.

I think we are all agreed that, if we desire an arrangement which shall be wide enough in its scope to obtain the approval of as many States as possible, the powers of the Council must be limited up to a point. I venture to emphasise this point and to add that, if we give these instructions to the Drafting Committee, we must further specify that this limitation of powers must necessarily be very exact, clear and unquestionable. Nothing would be worse than to provide an arrangement which limited the powers of the Council more or less vaguely. We must not forget that, when the Council has to adopt conservatory measures, it will have to do so immediately. It is therefore important that it should not be compelled to discuss the question whether the case in point refers to a country which is or is not a party to the agreement concluded.

I shall now revert to the matter of procedure. Suppose that the agreement is signed by a certain number of States and let us also suppose that the Council's powers are clearly and distinctly defined. We will then imagine a number of States — A, B, C, and D — in conflict. States A and B have signed the agreement, whereas States C and D have not signed it. The position is exceedingly complicated and the Council will have to solve a very difficult question, especially as it may very well happen that States A and B are in opposite camps, with C and D as their respective allies. As regards A and B, the conservatory measures will have at once to be enforced, but these measures would not be binding upon their allies C and D. Would it be possible to enforce these conservatory measures partially? From which it follows that the Drafting Committee will have to examine very carefully the form to be given to the arrangement.

M. ROLIN JAEQUEMENYS (Rapporteur). — There is no doubt, I think, that the question of reciprocity must, as M. Sokal has pointed out, be examined. The obligation to submit to
the conservatory measures taken in virtue of the agreement contemplated by the first German suggestion could only be enforced against parties bound together by an agreement, that is to say on a reciprocal basis. I think that we are all agreed on that point. It is important not to forget this recommendation when drafting the convention.

Since reference has been made to question (2) relating to the first suggestion, I should like to say that, in my capacity of Rapporteur, I thought it my duty to indicate those questions which, in addition to the German suggestions and in accordance with the various observations received from members of the Committee, could be excluded from the Council's purview. I referred to them under (a), (b) and (c). I felt I was fulfilling my duty as Rapporteur in doing so. I should like to point out, however, that personally I am not necessarily in favour of statements which I make in the memorandum. There are also differences to be established, as you all know, between points (a), (b) and (c). For instance, it is possible to be in agreement with the restrictions under (a) and (b), but not under (c).

Lord CUSHENDUN (British Empire). — Mr. Chairman, most of the speeches that have been made up to the present have been mainly concerned with questions of procedure. I want to address a few observations to the Committee, not on procedure, but on the merits of this particular question. When we were discussing this in March, I pointed out that I, and probably other members of the Committee, were without any instructions from their Governments, but I indicated provisionally what were my own personal views of this matter and I then said that I thought this suggestion No. I was far too vague.

The first question which I want to ask the Committee is whether this suggestion No. I is really required. I suggest that it is almost entirely covered already by the Covenant or by resolutions of the Council. For example, reference has been made to Article 11, but Article 12 of the Covenant uses these words:

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

Now if it rested there I would agree that there is no provision for what has been called conservatory measures, but at its very last session, less than a month ago, the Council passed a very important resolution which I should like to read:

"(1) The Council considers that, when a question has been submitted for its examination, it is extremely desirable that the Governments concerned should take whatever steps may be necessary or useful to prevent anything occurring in their respective territories which might prejudice the examination or settlement of the question by the Council.

(2) When there is submitted to the Council a request for investigation or the case of a dispute which has been placed on the agenda under paragraph 2 of Article 11 or other Articles of the Covenant, such as Article 13 or 15, the Secretary-General shall immediately communicate with the interested parties, drawing their attention to resolution (1) above, requesting them in the name of the Council to forward their replies to him without delay for communication to the Council and to inform him of the steps which have been taken."

Now I submit that those provisions, taken together, practically cover all the ground. It is quite true that there is no provision there for an agreement in advance to obey the recommendations of the Council, but does anyone seriously suppose that any State which would be ready under those circumstances to flout the opinion of the Council and to disregard the whole authority of the League would be deterred under those circumstances by any agreement that had been made in the form of a general protocol in advance to allow the Council to take measures, and does anyone imagine under those circumstances that the Council would take such measures? I would like to point out that this resolution was adopted by the Council a short time ago when these German suggestions were already in print. They must have been known to the Council and they could have adopted them and incorporated them in this resolution. If the Council with that knowledge before them deliberately framed this resolution without asking for the powers or suggesting the powers which have been given by the first of the German delegation's suggestions, I think we may take it that the Council had very good reason for doing so, and having done so, we may, I think, assume that, if circumstances arose when the Council had to act, they would act upon their own resolution and they would not make any recommendations which a certain number of States might have agreed in advance to accept. Therefore I suggest that really you are not going to carry the matter any further by adopting this particular suggestion.

The second point I wish to make is this. After thinking over it much more fully and consulting with regard to it since we were here in March, I am still more convinced that the terms are far too wide. When we come to the next suggestion, No. II, it will be my duty to say distinctly that my Government is unable to accept it. I shall have to resist suggestion No. II. I am not asking the Committee altogether to resist suggestion No. I, but it will require amendment from our point of view for this reason. I cannot accept
suggestion No. II, but as it stands No. II is not required, because, if suggestion No. I were carried, it would give to the Council and to the agreeing States the powers to put in force suggestion No. II, and therefore if we are going to accept suggestion No. I at all, before giving any assent to it, it would be necessary to amend it in such a way as to exclude the power of acting on suggestion No. II, which is that dealing with the status quo ante. Then the question comes, by what method are the powers to be conferred upon the Council to be restricted, and there has been some discussion upon that point. Now there are two ways, quite distinct in principle, in which you can make such a limitation. You may do as the Rapporteur suggests: confer general powers upon the Council subject to certain specific reservations. But you may approach it in quite a different way and say that you will confer specific powers upon the Council and only such powers as you specify. I strongly favour the latter of those two principles. I do not believe that you will find it possible to construct, or that any Drafting Committee could construct satisfactorily, a clause, thinking out beforehand the specific reservations that you ought to make. I think you ought to be clear in your minds first of all as to exactly what powers, and what powers only, you are prepared or that any Drafting Committee could construct satisfactorily, a clause, thinking out beforehand the latter of those two principles. I do not believe that you will find it possible to construct, specific powers upon the Council and only such powers as you specify. I strongly favour reservations. But you may approach it in quite a different way and say that you will confer upon the Council, subject of course to the States asking for them to be put into your minds first of all as to exactly what powers, and what powers only, you are prepared to confer upon the Council, subject of course to the States asking for them to be put into operation, and, so far as my Government is concerned, I am quite ready to accept this clause if it is amended in that way and subject to the satisfactory specification of the powers which the Council might adopt.

Now, M. von Simson quoted me a little time ago as having acquiesced in Convention A, although I was not very enamoured of it. That is quite true, and my reason for doing so was that, although I did not believe that the Convention was really going to be of any great service, I was very reluctant to set myself against proposals which commanded the assent of a good many of my colleagues. I was very anxious then, as I am now, to acquiesce in any proposals which the Committee might think useful. Now it is said, I understand, that in this case there is to be no protocol open for general signature. I am very glad that that is so, but it may be said: "What does it matter to you? What does it matter what goes into suggestion No. I: you need not sign it." Well that is quite true; nevertheless I say, representing my Government, that we have interest in all these matters. My Government is a permanent Member of the Council and it is very important to every Member of the Council, whether permanent or temporary, in fact to every Member of the League, that in times of crisis the Council should not have responsibility for carrying out procedure which is not likely to be effective. I do not believe for a moment that those wide powers sought to be conferred by suggestion No. I could be satisfactorily exercised by the Council, and I repeat that it evidently does not think so itself, or else it would have incorporated it into its recent resolution, and if you invent machinery of this sort with a desire to stop every conceivable gap and hole in the procedure of the League, many treaties grant this right to some arbitral jurisdiction. The Locarno Treaties confer the same power upon the Council. Moreover, to limit the Council's competence in this matter might cause the parties to plead incompetence and the Council would find itself confronted by a preliminary question necessitating recourse to a committee of jurists or to the Hague Court for an advisory opinion just at a time when rapid action was required.

Personally, I see no need to limit the action of the Council in this matter. I do not see much fear of the Council taking rash decisions if it is given the right to take measures of a conservatory nature. Many treaties grant this right to some arbitral jurisdiction. The Locarno Treaties confer the same power upon the Council. Moreover, to limit the Council's competence in this matter might cause the parties to plead incompetence and the Council would find itself confronted by a preliminary question necessitating recourse to a committee of jurists or to the Hague Court for an advisory opinion just at a time when rapid action was required. I think that the Locarno Treaties might well serve as models. The Arbitration Treaty between Poland and Germany says that it will rest with the Council of the League of Nations to take the necessary measures.

The Swedish delegation has ventured to indicate its point of view briefly in written declarations which it has submitted to the Committee.

M. VON SIMSON (Germany). — Lord Cushendun will allow me to say that his speech has rather disappointed me. He began by saying that, if it was decided to rule out a protocol, he would no longer be compelled to oppose our suggestions to the same degree that he would if we insisted on a protocol. Having gained this point, however, in accordance with his wish, he has adopted towards our suggestions an attitude which I can only describe as wholly negative. He has adopted the same point of view that he held at the last session and, as it seems to me, even more stubbornly.
I must not let it be thought that I am of Lord Cushendun's opinion, for there is a very wide difference of view between us.

The honourable representative of the British Empire said that the terms of the first German suggestion were too wide and indefinite and that that constituted a danger. I ventured to remind the Committee at the last session that exactly the same text appears in the Treaty of Locarno. It is an undertaking which several Governments have given in the Locarno Treaty and I do not see anything indefinite about that.

Lord Cushendun said that our suggestion was unnecessary because it seemed to him already covered by the stipulations in the League Covenant. I cannot agree. I think there is a fundamental difference between our suggestions and the present situation. We are discussing a previous undertaking by States to execute what the Council shall have decided. Article 12 of the Covenant only refers to a dispute likely to lead to a rupture, whereas our first suggestion speaks of all disputes whether likely to lead to a rupture or not.

Greatly to my regret, the British representative said that he was absolutely opposed to suggestion No. II, and he expressed the opinion that this second suggestion was superfluous because the case which it sought to meet was already covered by suggestion No. I. That is an error. Suggestion No. I deals with a case in which the Council makes a recommendation for the purpose of preventing any aggravation or extension of a dispute, whereas in the second German suggestion the decisive point is that there is already something to restore. It is a question of re-establishing the military status quo. That is a question which would not be covered by the first suggestion.

Lord Cushendun next referred to a recent decision of the Council and declared that this decision covered a large part of our suggestions and that the Council could therefore have chosen the formula we have proposed had it so wished.

I cannot accept this argument, for the Council was not, and is not yet, in a position to take decisions on the lines of our suggestions; it must first be given the opportunity to do so through an international convention. Up to the present, the Council has confined itself to stating that it would be exceedingly desirable for States to take the necessary measures not to aggravate the situation. Our suggestion, however, aims at establishing an international obligation. If our proposal is adopted, the Council will be able to declare that such a measure is necessary and will be able to enforce it.

In this connection, Lord Cushendun pointed out that we must avoid placing the Council in a delicate position which might possibly impair its authority by compelling it to make recommendations which might not be followed. I do not follow this objection. We are proposing that States should undertake to submit to the Council's recommendations. My country, like Lord Cushendun's, is a permanent Member of the Council. I am sure, however, that, far from being compromised, the Council's authority can only be reinforced if our suggestion is adopted, because a certain number of States will have decided in advance to carry out the orders of the Council. Obviously the latter's authority will in that case be greater, for at present it has to be content with recommendations.

That is all I desire to say for the moment. I hope that our subsequent discussions will enable us to overcome some of the objections which have been raised, for, if the Committee should declare that only the first of our suggestions should be retained and that its scope should be restricted, nothing would remain of them to necessitate further discussion.

With regard to suggestion No. I, I may add that I am entirely in agreement with M. Undén.

M. Rutgers (Netherlands). — I have only one remark to make, and that is on the question whether the powers of the Council shall be limited in all questions left by international law to the exclusive jurisdiction of a State, the latter retaining its liberty of action.

I think it would be difficult for us to give an affirmative answer to this question. The dangers referred to by the Swedish representative and, if I remember rightly, by the representative of Poland, might arise. Very delicate legal questions would have to be settled before the Council could act. It might even happen that, in order to decide whether the question was or was not one of those which international law leaves to the exclusive jurisdiction of States, it would be necessary to take a decision upon the substance of the dispute.

I therefore think that we must avoid unduly limiting the Council's powers.

M. Paul-Boncour (France). — I support the observations of the Netherlands representative and also that made just now by the representative of Sweden. I think that this mention of questions left by international law to the exclusive jurisdiction of States is an almost exact reproduction of paragraph 8 of Article 15 of the Covenant. Within the scope of Article 15 it is, alas, in place, for it constitutes the principal gap in that Article through which war may well find a way. Nevertheless, when paragraph 8 of Article 15 declares that the Council shall report and shall make no recommendation as to settlement, that does not mean that we are not to take all possible measures in order that the settlement may not be found in war. Since we are concerned with measures to prevent a conflict from arising or extending, I do not think that the very important exception contained in Article 15 should be reproduced in the circumstances with which we are dealing.
M. POLITIS (Greece). — I should like to supplement what has just been said regarding paragraph 8 of Article 15 by adding that it has on several occasions been admitted that this clause does not restrict the competence of the Council in virtue of other articles, and chiefly Article 11 of the Covenant. This point was discussed at great length and in a particular connection four years ago.

The CHAIRMAN. — When it examines this question, the Drafting Committee will take account of the observations made in this Committee.

M. ROLIN JAEQUEMYNS (Rapporteur). — That means, I suppose, that the Drafting Committee will understand that this Committee does not intend to retain this restriction (a).

The CHAIRMAN. — Hitherto it has been understood that, when no objection has been made to the principle of any suggestion, the Drafting Committee has taken account of the suggestion.

M. SOKAL (Poland). — I should like to be quite sure of understanding the Chairman. Is the Drafting Committee to receive instructions with regard to question 2, to the effect that conservatory measures are to be left to the Council's discretion?

I do not know whether the Committee on Arbitration and Security has already expressed its opinion on this question, which is of the utmost importance. In any case, if you think that we ought to give such exact instructions, I propose that we vote on the point.

The CHAIRMAN. — M. Sokal's question brings us back to the matter of procedure and compels us, in connection with each problem, to ask what exact instructions are to be given to the Drafting Committee. Up to the present our procedure has been otherwise. A memorandum has been submitted to us, and we have opened a general discussion in which various delegations have stated what they did not want, but not what they did want. In this way we have proceeded to eliminate everything that the various Governments were unable to accept in final treaties. I was under the impression that we should maintain this procedure, which is the simplest and the speediest.

If, in regard to this important question, you think it necessary to take a vote, there is no objection to doing so; but it will appreciably prolong our discussion, since the greater part of the work which has hitherto been entrusted to the Drafting Committee will be performed at plenary meetings.

I would remind you that the first reading will not take place until the Drafting Committee submits to us the drafts of the collective treaties, and these no doubt will be referred back to the Drafting Committee, so that we shall have an opportunity of examining them on several occasions.

M. SOKAL (Poland). — It is understood, then, that, following this procedure, we give no exact instructions to the Drafting Committee and shall have an opportunity of examining the texts again.

The CHAIRMAN. — The plenary Committee gives general instructions upon which the Drafting Committee acts in framing a draft submitted to it. When this draft is examined, each delegate will be able to submit his observations.

9. German Delegation's Suggestions. Discussion on Suggestion No. II.

Suggestion No. II. — In case of threat of war, the States might undertake in advance to accept and to execute the recommendations of the Council to the effect of maintaining or re-establishing the military status quo normally existing in time of peace.

Questions submitted by the Rapporteur with reference to Suggestion No. II.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to order measures, when there is a danger of conflict between the said States, with a view to maintaining or restoring between them the status quo ante in the matter of preparations for war?

2. Should the above rule relating to principle be supplemented in accordance with the following provisions reproduced from Article III (d) and (e), of the report on Article 11 of the Council, approved by the Council on December 6th, 1927?

(d) The Council "may indicate to the parties any movements of troops, mobilisation operations and other similar measures from which it recommends them to abstain. Similar measures of an industrial, economic or financial nature may also be recommended."

(e) "In order to satisfy itself of the way in which these measures have been carried out and to keep itself informed of the course of events, the Council may think it desirable to send representatives to the locality of the dispute."

3. Should the Council be given explicitly a right of supervision in regard to the execution of measures prescribed with a view to restoring the status quo ante, and should it be granted entire freedom to adopt for this purpose measures clearly defined and of immediate application?
Lord Cushendun (British Empire). — Mr. Chairman, as I said just now when we were discussing suggestion No. I, I find it necessary to oppose suggestion No. II altogether. M. von Simson expressed disappointment with the attitude which I had taken up. He said that in March I appeared to be entirely opposed to the German suggestions and that I appeared now to be even more opposed to them. I can assure him that that is not the case. In March, I was expressing merely a personal opinion and I then said that, so far as I was able to judge off-hand, all the five suggestions might have very grave objections brought against them. I have now considered them more fully in consultation with others, and out of these five suggestions there are two that I should be perfectly prepared to accept subject to a certain amount of amendment. I am sure that M. von Simson would not be so unreasonable as to expect that the exact text, ipseissima verba, which he puts on paper must be accepted. It is surely reasonable, if we want to have a convention which is acceptable, that we may make amendments here and there. Subject to amendments, which I shall be quite ready at the proper time to detail, I would be prepared to accept two out of the five suggestions. But this suggestion No. II is not one of them. I said in March that I had no military knowledge at all myself, but that I could not help thinking that, if they were examined from a military point of view, the possibility of re-establishing the status quo normally prevalent in time of peace would be found an impracticable proposal. Well, I have submitted that question and others to a very competent committee and I may say that that committee came to the conclusion that this suggestion No. II, as I stated just now, might be carried out under suggestion No. I. I am not at all convinced by M. von Simson’s explanation that he does not agree with that view. Well, as the very competent committee to which I submitted it took that view, it only shows, at any rate, that there must be a good deal of ambiguity. The view I expressed may be quite wrong and M. von Simson may be right, but at all events it is an open question. But what I am concerned with now is whether suggestion No. II is included under suggestion No. I, but whether it contains a practicable proposal. Now all the military and naval opinion which I have been able to consult is emphatically of opinion that such a thing could not be done, and what I would like to ask M. von Simson and my other colleagues is: Is there anyone here who can tell us that he has consulted competent military opinion on this point? I have not heard any military opinion quoted to the effect that such a suggestion could be carried out. It is quite clear that a suggestion of that sort, if it comes entirely or mainly from a body of civilians, has very little value because it is a military question. Would it be possible to re-establish — and that shows that a dispute has broken out or is on the point of breaking out — the normal state of affairs existing in peace? Well, I said in March, and I repeat now most emphatically that the main objection that I see to that proposal is that it would very likely operate in favour of the aggressor and not in favour of the victim of aggression. I do not wish to take up the time of the Committee by repeating arguments I raised before, but my own opinion, which on that point I admit is of comparatively little value, is supported not by competent opinions that that is what the effect would be if you gave the Council power to do it and if the Council were to do it. I do not suppose they would. I think they would have too much sense, but, if they did, one can easily imagine that the effect in a great number of cases would be the very opposite to that which I am quite certain M. von Simson desires and we all desire, namely, to make difficulties, if possible, for the aggressor and to provide facilities for the victim of aggression.

My conclusion is that it would have the opposite effect and I am strongly opposed to this particular suggestion. I hope very much that the Committee will reject it. It is all very well to say: “If it is not to be a protocol, you and your Government need not sign it.” That is quite true, but I shall ask the Committee to believe that I am anxious, if we devise a convention at all, that it shall be a convention which the greatest number of States can sign. I do not see any object in devising a convention as to which, when it is examined by the various Governments, they all of one accord say: “This was a gesture, or it may have been a suggestion, but it is so impracticable that no one can accept it.” That is not doing business. It is because I am anxious that any convention we agree upon should be a practicable contribution to the maintenance of peace and to make it more difficult for a dispute to drift into war that I hope very much that the Committee will reject the suggestion. I venture to appeal to M. von Simson himself, unless he can quote military opinion and unless he can show that the fears which I entertain with regard to the aggressor being assisted are really groundless, to withdraw this particular suggestion and, if he does not feel able to do that, then all I can say is that I hope very much that the Committee will take the same view that I do and will not refer it at all to the Drafting Committee, but will instruct the Drafting Committee to leave it on one side.

M. Sokal (Poland). — As regards the second German suggestion concerning measures with a view to maintaining or re-establishing between the States the status quo ante with regard to preparations for war, I am in a position to state that, as in the case of the first suggestion, the Polish delegation is in sympathy with this suggestion. It recognises its great utility, and considers that it would be expedient to supplement it by the recommendations in the report on Article II of the Covenant, which was approved by the Council on December 6th last. 


I also consider that the objections raised by Lord Cushendun in his last speech are very serious. But these objections existed at the time when we were studying the question, and it seemed to us that the adoption of the second suggestion required, as a logical consequence, the express recognition of the Council’s right to exercise ample and effective supervision in the case of a threatened conflict.

The establishment of a system of supervision — of which Lord Cushendun made no mention — is, we think, of the greatest importance. The most perfect conservative measures are only effective to the extent to which they are carried out in accordance with the intentions of the organ by which they were ordered. It appears to us essential, therefore, that they should be actually put in practice, if the whole system is not to prove illusory, ineffective and even harmful, and, as it were, to place a premium on treachery at the expense of loyalty. The French delegate, M. Paul-Boncour, said that the Council could only order measures which could be supervised. That observation is a very true one, and has my support, but I would add that, in the contingency which we are now considering, this supervision should be rapid and easy to carry out.

In addition to supervision, there are other considerations which I might have put forward with regard to the time within which the Council should begin to exercise supervision — which should be very short — and with reference to the composition of the supervisory organs, in regard to which the strictest guarantees should be given to the parties. But I do not wish to go into details of these complicated questions, and will merely add that this question of supervision appears to me to be one that is absolutely essential and of the first importance, for without it the most ingenious system of preventive measures would be nothing more than an attractive bait to the strong and a snare to the weak, as Lord Cushendun has just said.

In short, I think that, should our Committee not accept Lord Cushendun’s proposal, the Drafting Committee might perhaps consider the German delegation’s suggestion, provided that at the same time it submits proposals for effective and rapid supervision.

General de Marinis (Italy). — There is really no necessity for me to speak, since we are at present putting forward suggestions for the drafting of a bilateral or collective treaty, which will simply be open for signature to the countries prepared to accede to it. I shall merely say a few words from a strictly international standpoint, that is to say, from the standpoint of the League of Nations, with regard to the difficulties which will be encountered by the Council if it is called upon to apply the provisions stipulated in suggestion No. II now under consideration.

Lord Cushendun has said that it would be desirable to consult technical military, naval or air experts in regard to the possibility of applying the provisions of suggestion No. II. I will not make any attempt to suggest what replies would thus be obtained, but I can assure Lord Cushendun and all my colleagues that these questions have been discussed at length in the Commissions, Committees, Sub-Committees, etc., and that the reply desired by Lord Cushendun could be found in the League archives. I think I am right in saying that nearly all, or at all events the great majority, of the experts who have been called upon to give an opinion as to the practicability of these suggestions have given a negative answer.

There still remains the question of supervision. M. Sokal has just told us that he would be prepared to accept the suggestion, provided that it is supplemented by effective supervision. I have no desire to open a discussion on this delicate question by effective supervision which was also discussed at length when the Treaty of Mutual Assistance and the Geneva Protocol were drawn up. Opinions were divided, but certain a number of States decided that supervision would be absolutely ineffective and almost impossible to exercise. Moreover, I am convinced that the addition of sanctions and the possibility of supervision to these provisions would not make them any more practical, and it is for this reason that, in order to avoid hampering the Council by entrusting to it a task which it cannot perform, I cannot see my way to support these suggestions.

M. Paul-Boncour (France). — I think that suggestion No. II forms one of the most important points — if not the main point — of the discussion, for it raises a number of questions, some of which are mentioned, whereas others are not. It suggests the idea of the military status quo, or more accurately, of the status quo ante; it implies supervision, and I think that, although these are not mentioned, it also implies sanctions.

The connection between our present discussion of the German suggestions and the previous work of the Committee of the Council could not have been more accurately stated than had been done by our Rapporteur, who reproduced a part of the actual text drawn up in the course of that work.

Nevertheless, there is a difference in the methods proposed. The scheme prepared by the Committee of the Council, which was drawn up within the framework of Article 11, merely proposed a recommendation, following on an agreement between the parties, when the dispute was submitted to the Council. It was therefore natural that, as the idea of supervision by the Council is closely connected with that of the application of the measures ordered by it, this supervision was considered as a possibility, not an obligation. Neither was submission to the decision taken by the Council in the case of a conflict compulsory. Accordingly, the Committee did not deal with the question of sanctions to be applied. Nevertheless, it stated clearly that the Council would in all probability obtain an indication
as to aggression from the attitude of the State which refused to submit to the conservative measures indicated.

Now, however, we have before us a different proposal providing for the acceptance of obligations — not a system of general obligations which would appear to have been rejected at the outset of our discussion, but a system of contractual obligations resulting from undertakings accepted in advance by a certain number of States which have signed a treaty to this effect. In these circumstances, you will realise that, if a previous obligation exists to submit to the Council's decisions in regard to conservatory measures, the idea of compulsory supervision provided for and organised in advance, in such a way that conservatory measures will be put into practice at the same time as this supervision, must also be associated with it.

Is that sufficient? For my part, gentlemen, I do not think so. We are faced with a contractual obligation — a formula which I think accurately defines the proposal with which we are dealing to-day. As Lord Cumbhendu rightly remarked, so long as the provisions of such treaties are optional, we must ensure their signature by the largest possible number of Powers. This is the most important part of our work, which would otherwise accomplish no useful purpose. You have already seen that nations will not deliberately sign a treaty binding them in advance to accept conservatory measures which, in the case of a dispute, might place them in a difficult situation unless they are assured beforehand that, once the measures have been ordered, their execution may be supervised. Again, if these measures are not observed, if one of the parties — despite the Council's injunctions — refuses to submit to them, is the Council to remain inactive? Does not the obligation to comply with the measures provided for in advance involve the obligation of mutual assistance for the nation complying with those injunctions, which is attacked by the nation that has not complied with them? I fully realise the extent of the problem, which I do not propose to expound. I would merely point out that, if we go beyond the system of recommendations provided for in Article 11, as defined and explained by the Committee of the Council and reproduced textually by our Rapporteur, and propose obligations, all the rest — supervision and sanctions — necessarily follows.

I should like to express a personal view which in no way modifies the decisions which our Committee on Arbitration and Security has apparently taken; for my part, I confess that the great interest which I have found in the German suggestions, with which I expressed myself in sympathy from the outset, is that they are possibly less adapted to the framing of a special treaty than to inclusion in model treaties of mutual assistance on the drafting of which we are now working. I cannot conceive of these definite engagements with regard to conservatory measures without a definite guarantee of mutual assistance in the case of their observance by one of the parties and violation by the other. Moreover, as we are framing model treaties of mutual assistance, I should like conservatory measures to form one of the chapters of those treaties of mutual assistance.

Suggestion No. II raises another question which has just been the subject of interesting discussion. This discussion, though disappointing, seems to have brought to light the facts of the case. The question to which I am referring is that of the status quo ante. That little word ante, as Molière has it, says a great deal. Although I am not sure why our Rapporteur replaced it by the expression: "military status quo normally existing in time of peace" which appears in the report on the German suggestions, I think that the reasons are the same as those which have been stated at the meetings of the Committee of the Council. The Council's first act in the case of a threat of war is to order the maintenance of the status quo. Instead of saying "Go forward", it says "Stay where you are". There are reasons to believe, however, that the result might be favourable to the party which had carefully prepared the aggression and unfavourable to the victim and that the parties should be called upon, not to maintain the status quo ante but to re-establish the status quo ante. That is to say, the situation existing before the aggression was prepared. This is why we spoke of the status quo ante.

But to what moment does this status quo refer? If it were merely a question of strictly military or naval measures, there would probably be no difficulty. We know, however, that, at the present time, preparations for conflict are industrial no less than military and that, consequently, the status quo ante must also include the measures of industrial mobilisation taken by the States concerned. From what time are these measures deemed to have been taken?

In formulating this suggestion, the German delegation doubtless had these difficulties in mind when it included these much more definite words: "the military status quo normally existing in time of peace". But is it possible to measure, appreciate and hence to supervise this military status quo normally existing in time of peace? I adhere to my own view — and thank M. Sokal for his reference to it — which is that the Council can only order measures the execution of which it is possible for it to supervise. To order the military status quo normally existing in time of peace assumes a limitation of armaments which has not yet been effected. So long as this has not been agreed upon, it is, I think, impossible to decide with any degree of accuracy the military status quo normally existing in time of peace.

If our Drafting Committee formulates proposals, either in the form of a complete treaty of mutual assistance or in the form of a special treaty to which I am not opposed, nations will be free to sign or not to sign such undertakings but, for my part, I cannot contemplate preliminary engagements of this kind without the necessary corollary of supervision and sanctions.
I do not think that supervision is as impossible as General de Marinis has just told us it is. The Italian representative was no doubt referring to the work in which we have co-operated long enough to find out all the difficulties, but I still do not think it impossible, because our object is to endeavour to bring about a general reduction of armaments, which is our Committee's sole purpose. Its task being to increase security in order to facilitate the extent of disarmament; and as I do not believe in disarmament without supervision, I cannot think that this latter is impossible. In any case, with regard to the suggestions now before us, I would say that, in my view, supervision is indissolubly bound up with the idea of a preliminary engagement.

M. VON SIMSON (Germany). — If I thought that we were speaking on this question for the last time during our session, I should have to make a very long speech. But I am optimistic enough to believe that we shall return to the matter, and so, in view of the late hour, and the Chairman's tacit recommendation, I shall try to be brief in replying to some of the observations made.

At the beginning of his speech, Lord Cushendun asked whether suggestions Nos. I and II were connected, and whether all or part of the second suggestion was covered by the first. What I meant when I spoke last was that we intended to deal with two different things. I am, however, quite prepared to consider whether part of our second suggestion is covered by the first, and I should be very glad to find that it was in this way possible to save a part of our second suggestion. This question could, I think, be examined by the Drafting Committee.

Secondly, Lord Cushendun enquired whether the military experts of any country would consider such a suggestion acceptable.

On this point, I would first mention that the German Government drafted its suggestion after consulting its responsible experts and advisers. But — and I have every respect for military experts both present and absent — I am personally of opinion that this is not a purely military question, but a question primarily political. We are here touching upon the very delicate point whether, in the case of a threat of war, we should first consult political opinion or military opinion.

In my opinion, this is first and foremost a political question.

The honourable representative of the British Empire spoke next of the danger we should run, supposing the suggestions were adopted, of assisting the State which first threatened the other. He very rightly added that this was a consequence which none of us intended, particularly the German Government. On this point, M. Rolin Jaequemyns' excellent memorandum has given very valuable information, and I refer you to Chapter II, suggestion No. II, where you find the following passage:

"Accordingly, the Council should be left wide powers of action, not only in order to ensure that States shall abstain from all threatening or provocative acts, but also, if necessary, with a view to restoring the status quo existing before such measures were taken."

That principle indicates, I think, the policy the Council should adopt. It is for the Council to act in such a way as to restore the status quo which existed before threatening or provocative measures have been taken by one or another country. As regards the "normal status quo" referred to in our suggestion, M. Paul-Boncour considers that this would be a much easier matter to determine if there were already a general limitation of armaments. I made that remark myself at the first session, and I entirely agree with the honourable representative of France. M. Paul-Boncour added that this is not yet the state of affairs. I do not regard that as an objection to our suggestion, but rather as a further argument in favour of accelerating our endeavours to secure a limitation of armaments.

With regard to the question of control, I repeat what I said at the first session, that we are quite agreed in principle with M. Paul-Boncour and M. Sokal. The Council must be able to ascertain whether its orders are carried out or not. On this point, therefore, we have no objection. I fear, however, that, in their desire to establish full control, the partisans of this policy are asking for the insertion of provisions which might not obtain the consent of certain members of the Committee otherwise inclined to accept our suggestion. I shall therefore ask M. Paul-Boncour and M. Sokal not to insist upon the maximum security in this direction, but to be content with a step forward. Personally, I think that this problem of control is not so hard to solve as some of our colleagues seem to think, and I am less pessimistic in this matter than General de Marinis.

The honourable representative of the British Empire appealed to me to withdraw my Government's suggestion. I very much regret that I cannot do so. I in my turn venture to appeal to the courtesy of the British representative and request him not to prevent this question from being dealt with in the Drafting Committee. A great number of problems
have been raised, and there is abundant material to be examined by that Committee. I therefore ask that suggestion No. II should be referred to the Drafting Committee.

The meeting rose at 8 p.m.

FOURTH MEETING

Held on Monday, July 2nd, 1928, at 4 p.m.

Chairman : M. Beneš (Czechoslovakia).

10. Adoption of Model Conventions A, B and C. (Annex 8, II b.)

The Chairman. — The first items on to-day’s agenda are the adoption of Conventions A, B and C, a draft Assembly resolution and an introductory note; after that, the discussion of the German delegation’s suggestions which was begun on Saturday afternoon will be continued, and I hope we may be able to terminate this discussion to-day.

I shall shortly call upon M. Politis to give you a general explanation as to the manner in which the model Conventions have been modified by the Drafting Committee at the second reading. M. Politis’ explanations will deal with Conventions A, B and C and also with Conventions D, E and F, which will not be discussed until to-morrow.

I should first of all like to thank the Drafting Committee, and more particularly the Committee of Three, for the work they have done in regard to the study of the final text of Conventions A, B and C. You all have before you the text of those Conventions.

In view of the alterations made by the Drafting Committee in the text adopted at the Committee’s March session, it was necessary to modify to a certain extent the draft resolution proposed to the Assembly for the submission and recommendation of model General Conventions for conciliation, arbitration and judicial settlement. The new text of this resolution has also been distributed (Annex 8, II c).

The introductory note to the General Conventions on arbitration and conciliation has likewise been revised (Annex 8, II a). As now drafted, the note contains, not only the principles followed by the Committee in drawing up texts adopted at the first reading, but also the alterations which the Committee deemed it expedient to make at the time of the second reading. I shall ask M. Politis to be good enough to give you a general explanation in regard to the alterations made in the model Conventions.

Lastly, I would say that the Drafting Committee has decided to request the Secretariat to frame bilateral conventions on the basis of models A, B and C. It is an easy matter to extract from general conventions the elements of a separate convention. These drafts will be submitted to you at a later meeting during the present session.

I must point out that the delegations which had submitted amendments to the preamble were good enough, while reserving the right to submit those amendments later during the examination of the Conventions by the Committees of the Assembly, to withdraw them, so that the Committee’s work should not be delayed on that account. The preamble therefore remains unchanged.

M. Politis (Greece). — Two explanatory notes will be distributed, one dealing with model Conventions for the Pacific Settlement of International Disputes, and the other with Security Treaties.

These introductory notes will give details of the various alterations made in the text approved by you at our first reading. It is unnecessary for me to give you a summary of all the details contained in these two explanatory notes, which you will have the opportunity of reading yourselves. I shall therefore confine myself to giving you a few general indications with regard to the principles underlying the work, and the structure of the texts resulting from the second reading.

The method followed was the same as that which was adopted at the second session.

On the basis of the indications given by you, your Drafting Committee proceeded to examine a certain number of points in regard to which the texts appeared to call for some revision in the light of the proposals made on behalf of various Governments. After those points had been discussed, the task of drawing up new formulas for the purpose of revising or supplementing the original texts was entrusted to a Committee of Three.

Generally speaking — and confining myself first of all to the three model Conventions for the Pacific Settlement of International Disputes — I would say that no essential modification has been made in the substance of the Conventions. All the amendments are purely formal, their object being either to supplement or to explain more clearly the meaning of the text adopted at the first reading. The most important points to which I should like to draw your attention are as follows:
The first point is that of the form of the Conventions. In March, we thought it would be possible to negotiate general Conventions of those three types on the basis of the models prepared, after their approval by the Assembly. These Conventions, after they had been signed by a certain number of States, were to come into force between all States Members of the League. States non-Members of the League to which these texts were to be communicated would be invited to accede to them.

After further consideration, we decided that this system was somewhat complicated and would run counter to the desire to make these Conventions readily accessible, at an early date, to the greatest possible number of States, whether Members or non-Members of the League.

We have drawn up a very simple system whose chief merit is its elasticity, and this system is as follows: If our model conventions are approved by you and after you by the next Assembly of the League of Nations, they will become League documents and will at once be submitted to all States Members and non-Members of the League for their acceptance. In order to become a contracting party, a State need only signify its accession to one or more of those models, and as soon as the accession of one State is followed by the accession of a second State, the convention will come into force and will remain open indefinitely for the signature of other States.

This system is, I repeat, an extremely elastic one, and will, I hope, encourage all States desirous of promoting peace, whether Members of the League or not, to accede to the conventions.

An important point in regard to which the texts have been amended is that of the automatic constitution of arbitral tribunals and conciliation commissions should the parties fail to agree upon the appointments to be made. We have followed the system established by the Hague Convention of 1907 for the Pacific Settlement of International Disputes, but we have adapted it to the special requirements in view, and have, I may say, improved it by making it more practical and more reliable.

A third point concerns the procedure of conciliation commissions. We have dealt chiefly with two questions: the necessity for the presence of all the members of the commission when the latter is called upon to pronounce an opinion in regard to the subject-matter of the dispute, and decisions taken by a majority vote only; it is understood that, in this case, the fact must not be mentioned in the commission’s procès-verbal, in order to allow its members full freedom of action.

Another point which has been cleared up after lengthy and important discussion is that of the intervention of third parties when pacific procedure has been begun between two or more contracting States. In our various conventions, third parties may or must, according to the circumstances, be requested to intervene. It has been recognised, however, that they must always be free to reject the request. If they accept it or intervene on their own initiative as having a legal interest in the case, only then will the decision rendered, whether in the form of a judicial sentence or arbitral award, be final, even in regard to the third parties intervening. If it should happen that the interpretation of a collective convention is given by this sentence, this interpretation shall likewise be binding upon third parties intervening.

We have had to take into account the fact that the conventions might, as we earnestly hope, be accepted by States non-Members of the League, and in view of this possibility, we have revised those texts drawn up in March, which provide, in cases where judicial or arbitral procedure is not applied, or where the conciliation procedure is unsuccessful, that recourse shall be had to the League Covenant. Up to the present, we had only provided for the operation of Article 15 of the Covenant. The fact that the contracting parties may include States non-Members of the League has induced us to mention Article 17 of the Covenant also, which is specially applicable to the case.

A final point deserving of mention is that of the system of reservations. In March last, we explained the reasons why a wide allowance was made in our model Conventions for the Pacific Settlement of International Disputes for the system of reservations. We have been obliged to retain this system, but we have endeavoured to improve it further by stating definitely that the various kinds of reservations already indicated are to be regarded as specific. Only those reservations and no others may be formulated by the contracting States in the model treaties we have prepared.

We thought that it might be possible to add a further class of reservations in order to make the Conventions still more elastic, and to enable certain States, which would not be prepared to accept the jurisdiction of the Permanent Court of International Justice in matters of common law, to substitute a special arbitral tribunal. Accordingly, two texts were drawn up, the scope of which is explained in the introductory note. Upon reflection, however, we decided that it would be somewhat difficult to retain this text. Opinions in the Committee were divided as to the advisability, even for the purpose of making the Conventions more elastic, of adding this fourth series of reservations. The question has therefore remained open and will be decided at a later meeting, or when our model Conventions are examined by the Assembly in September. We shall then have to see whether, by what means, and to what extent, it would be expedient to adopt these reservations, allowing States a wider choice and greater freedom in determining the judge in judicial or arbitral procedure in matters of common law.
These multiple Conventions — now six in number, including the three bilateral Treaties based on the three types of general conventions — are also open to the parties who can choose between them. The Drafting Committee did not feel able to give preference to any one of them. Opinions were divided and I think they will continue to be so.

Convention A is preferred by many to the other conventions; but, on the other hand, certain members prefer Conventions B and C to Convention A.

Under these circumstances, the Drafting Committee does not propose to indicate any order of preference as between the various model conventions, but to offer them all to the States for them to choose between them at their discretion and accept them. States may possibly feel inclined to accede to several of these conventions at the same time, and these multiple signatures or accessions to several texts may give rise to certain practical difficulties. We do not deny this. It was not our intention to consider difficulties in detail, but we thought that it would be for the parties concerned, when difficulties of this kind arose, to settle them by mutual agreement. Should an agreement not be reached, the remedy would be found in the general clause inserted at the end of all the model Conventions to the effect that disputes relating to the interpretation or application of those Conventions should be submitted to the Hague Court. This remedy would be open to all States and would, in every case, facilitate the application of our various conventions.

That, gentlemen, was what I wished to say with regard to Conventions for the Pacific Settlement of International Disputes.

A draft resolution attached to those texts was adopted by you at the first reading in March. It has remained practically unchanged and has merely been adapted to the new form now given to the three main general Conventions.

I should now like to say a few words with regard to the three other model Treaties: models D, E and F. The substance of the question has not been touched. We have merely adapted the form of certain provisions to the new form of the corresponding provisions in Conventions A, B and C, more particularly with regard to the automatic constitution of arbitral tribunals and the constitution of conciliation commissions. The form of Treaties D, E and F has not been changed, and the difference between the two classes of models is clearly defined. Whilst models A, B and C will, as I have just stated, be open immediately for the accession of all States after approval, we hope, by the next Assembly, models D, E and F cannot acquire the force of treaties until the necessary negotiations have taken place between States desirous of co-operating in the manner advocated in these conventions in the form of non-aggression and the pacific settlement of disputes or by means of closer co-operation in addition to non-aggression, that is to say, by mutual assistance in the event of one of the contracting parties being the victim of aggression by the other party.

That, gentlemen, is of the first importance, not only because in this second class of models we have only been able to lay the foundations for the work which we trust may be accomplished by States, but also because the negotiations necessary to give practical effect to texts of this kind will enable States interested to supplement our models in accordance with the special requirements of the region to which they belong by special clauses which we considered it useless or impossible to insert in a general and unalterable form in model Treaties. This question bears closely upon various interesting proposals submitted to us, in particular to the Serb-Croat-Slovene and Polish delegations (Annexes 6 and 7).

The main object of those proposals was to supplement Article 3 of model D by extending the mutual assistance provided for therein to a certain extent.

The Serb-Croat-Slovene proposal stated that mutual assistance was to be extended to non-aggression; and the Polish proposal provided for mutual assistance to be extended in cases where the Council is not unanimous and where, in accordance with the spirit and letter of the Covenant, each State Member of the League is free to take such action as it may deem advisable in regard to a dispute which has arisen between two other States.

These proposals were examined at length and we concluded that, in principle, they contain many valuable suggestions, but that it was particularly difficult to define their scope by means of a definite text. Several members of the Drafting Committee were of opinion that these suggestions should not be included in a general model security treaty, but that the essential points should be borne in mind by the contracting States during the subsequent negotiations with a view to giving practical effect to the models.

Moreover, as stated in the explanatory note, the question in regard to certain of these proposals remains open. They can be examined either by the forthcoming Assembly or at a later session of the Committee on Arbitration and Security.

These observations apply also to the Turkish delegation's proposal (Annex 5). The latter suggested that, with regard to Treaty D, two very important amendments might be made; one concerns the neutrality clause which, in the opinion of the Turkish delegation, constitutes partial assistance, and the other the possibility for contracting States non-Members of the League to have recourse in certain cases, in order to determine the aggressor, to an international organ other than the League Council.

The Drafting Committee has examined these proposals and recognised that they were of great importance, but that, at the same time, they involved very serious problems, the chief
one being whether and to what extent these amendments would be compatible for the Members of the League with their obligations under the Covenant; it was understood that these questions would be examined more closely on another occasion.

I cannot complete this brief survey without stating that the amount of work which it has been possible for the Drafting Committee and the Committee of Three to accomplish is due to the intelligent and valuable co-operation of the Director of the department of the League Secretariat concerned and his colleagues, to which I should like to pay tribute.

The Chairman. — I have nothing to add to M. Politis' explanations. They are so clear and full that we can take a vote on the Conventions at once. I should like to thank M. Politis on behalf of the whole Committee.

Munir Bey (Turkey). — Article 8 provides that the dispute may be submitted to the Permanent Court of International Justice or to the arbitral tribunal. The first paragraph also uses the word "may". This, however, definitely indicates that the contracting Parties are free to choose their line of action. Since, according to the general plan of the Convention, the contracting Parties are compelled to accept the jurisdiction either of the Permanent Court of International Justice or of an arbitral tribunal selected by themselves, I consider that the word to be used in the second paragraph should not be "may" but "shall". This point might subsequently give rise to utterly different interpretations.

M. Politis (Greece). — There would be no difficulty in using "shall", but I think that this would be neither in keeping with the facts nor juridically sound. We are dealing here with an obligation, that is certain. We must not forget, however, that, if an obligation devolves upon the country called upon to submit to judicial procedure, there is no obligation to be a plaintiff. In the present case, an attempt has been made to settle the dispute beforehand by conciliation. It has failed. What is going to happen then under normal circumstances? If the plaintiff country wishes to proceed further, it need only lay the matter before the Hague Tribunal or before a special tribunal as the case may be. But it is not obliged to take this line. The conciliation procedure may have convinced it that it was wrong, and, on second thoughts, it may consider that it should not press its point. I hold that in international as in private relations, the ideal is to avoid too many legal proceedings. If the plaintiff State changes its mind, why compel it to take action?

If you then look at Article 8, to which Munir Bey has just referred, you will find that, if the dispute is to be submitted to the Permanent Court or to the arbitral tribunal, it seems somewhat strange to keep the word "may". Indeed, it appears to me essential to use the word "shall" as in Article 4, otherwise there will be an obligation, in the event of there being no conciliation procedure, but no obligation in the event of an attempt at conciliation having failed.

I may add that I agree with M. Politis that the parties will be free at all times to come to an understanding. But, when they have come to such an understanding, there will no longer be a dispute to be settled and this is what we must hope for.

M. Fromageot (France). — If you look at Article 4, you will see that it refers to disputes which must necessarily be submitted to an adjudicating body — either the Permanent Court of International Justice or an arbitral tribunal. The terms of Article 4 are imperative. If you then look at Article 8, to which Munir Bey has just referred, you will find that, if the attempt at conciliation fails, there is no further obligation. There is merely an optional form of procedure. It appears to me essential to reconcile Article 8 with Article 4. Now, as Article 8 deals with disputes which will necessarily be submitted either to the Permanent Court or to the arbitral tribunal, it seems somewhat strange to keep the word "may". Indeed, it appears to me essential to use the word "shall" as in Article 4, otherwise there will be an obligation, in the event of there being no conciliation procedure, but no obligation in the event of an attempt at conciliation having failed.

I may add that I agree with M. Politis that the parties will be free at all times to come to an understanding. But, when they have come to such an understanding, there will no longer be a dispute to be settled and this is what we must hope for.

The Chairman. — As M. Politis does not press his point, we might perhaps, in order to make matters clear and to avoid any misunderstanding, adopt the proposal submitted by Munir Bey and supported by M. Fromageot.

Agreed.

Lord Cushendun (British Empire). — I must make a general reservation with regard to Article 42: this reservation applies to the other conventions also, and I shall not repeat it. The British representative on the Drafting Committee has already made a reservation with regard to this article. The original language employed, I believe, was "signature and ratification", which is now replaced by "accession". Now, there are technical questions which may arise on this point in connection with the methods of accession of the various parts of the British Empire. I am not quite certain that the language employed here will meet the requirements of the case and these technical difficulties. In order to reserve my right to recur to this matter at a later period, I would like to repeat the reservation made by the British representative on the Drafting Committee.
The CHAIRMAN: The Committee on Arbitration and Security takes note of this reservation.

The text of the Convention was adopted as a whole.

Adoption of Convention B.

The text of the Convention was examined article by article.

The text of the Convention was adopted as a whole.

Adoption of Convention C.

The text of Convention C was examined article by article.

The text of the Convention was adopted as a whole.


"The Assembly,

"Having noted with satisfaction the model General Conventions drawn up by the Committee on Arbitration and Security on the subjects of conciliation, arbitration and judicial settlement;

"Highly appreciating the value of these model General Conventions; and

"Being convinced that their adoption by the greatest possible number of States would serve to increase the guarantees of security;

"Recommends all States, whether Members of the League or not, to accede thereto;

"Draws the attention of Governments which may not feel able to assume general obligations to the fact that they could accept the rules established by the aforesaid model conventions by means of special agreements or a simple exchange of notes with any States they may desire; and

"Requests the Council, with a view to this eventuality, to give the Secretariat of the League of Nations instructions to keep a list of the special obligations undertaken within the scope of the General Conventions, so as to enable States Members and non-Members of the League of Nations to obtain information thereon as soon as possible."

Lord CUSHENDUN (British Empire). - I should like to be allowed to make one or two observations upon this draft resolution. I am quite aware that it is in accordance with the usual practice pursued by Commissions and organs of the League, but as I hold rather strongly that a great deal of the procedure requires reform, I hope it will not be considered out of place if I take this occasion to indicate the view that I hold, though I do not wish, of course, to press it if it does not commend itself to the Committee. This resolution is a resolution to be passed by the Assembly, and it does not seem that we have a very high opinion of the resources of the Assembly if we submit a draft resolution beforehand. I venture to think that the resources of the Assembly are equal to drafting a resolution for themselves, and I do not consider that we should take it upon ourselves to dictate a text to them, especially as we are asking them to express their satisfaction with regard to the model conventions drafted by the Arbitration Committee. How can we know that they will view them with satisfaction? It is quite possible that they may view them with anything but satisfaction. But even if they did, it is for them to say so and not for us to suggest it.

Again, this draft contains the following phrase: "Highly appreciating the value of these model General Conventions..."

Well, I certainly hope they will, but would it not be at least more modest of us not to say beforehand that these models are highly satisfactory.

In a word, we are telling the Assembly what it has to say; I think that this is really a most inconvenient practice. I would therefore propose that we pass another resolution worded as follows:

"The Committee on Arbitration and Security calls the attention of the Assembly to certain draft treaties drafted by this Committee, and requests the Assembly to take these drafts into consideration."

That is all we have any right to do and, for the rest, we should leave matters to the Assembly. If the Assembly does view our work with the admiration we anticipate, it will be quite capable of saying so itself.

M. PAUL-BONCOUR (France). - Lord Cushendun has humorously pointed out that we are awarding ourselves a certificate of merit and are thus somewhat anticipating matters, to say the least of it. I entirely agree with him. At the same time, I think we should — without falling into the sin of pride — find some way of throwing into prominence what I fancy was regarded in March last as one of the essential points to be kept in view by this Committee; in other words, it must be made clear that the Committee hopes that these treaties, which we are already complacently describing as models, will not be simply shelved, but that they will be available for the conduct of what I may call international League policy.
and will be proposed in this way to the various States for adoption. There can be no question but that the Assembly is alone entitled to take this step, but it is none the less true that our work is highly valuable. The minor points which inevitably arise at a second reading may obscure for a time the importance of this work. Nevertheless, when we are able to view it in proper perspective we shall see that, in drafting these treaties, and submitting them to the Assembly for approval, we shall, if they are taken up by the latter and then by the Council, have contributed towards the improvement of the position in regard to security. We must therefore devise some means of expressing our views on this point; without laying ourselves obscure for a time the importance of this work. Nevertheless, when we are able to view it in proper perspective we shall see that, in drafting these treaties, and submitting them to the Assembly for approval, we shall, if they are taken up by the latter and then by the Council, have contributed towards the improvement of the position in regard to security. We must therefore devise some means of expressing our views on this point; without laying ourselves

### 12. German Delegation's Suggestions: Continuation of the Discussion on Suggestion No. II.

**M. SATO (Japan).** — Mr. Chairman, at Saturday's meeting I followed the discussion of the German delegation's suggestions with the greatest interest. So long as the discussion merely turned on the possible drafting of a collective — as distinct from a general — model treaty, I thought it preferable to remain silent in order to avoid unnecessarily hampering the work of this Committee.

**The resolution thus amended was adopted (Annex 8, II c.)**
In the course of discussion, however, we came to consider a problem of the highest importance and found ourselves faced with a very serious question, namely, supervision. I therefore feel it to be my duty to say a word on this subject.

My colleagues will doubtless remember that the opinion of my Government on this subject has been stated on many occasions. I do not propose, therefore, to make a detailed statement of its views, which you will find set forth in the documents of Sub-Commission A. I should like to say, however, that my Government still has great difficulty in accepting the idea of supervision. There seem to be two currents of opinion in this Committee. Some of our colleagues demand supervision as an essential condition of their acceptance of the German suggestions; others, on the contrary, show little inclination to approve these suggestions if they are to be accompanied by a system of supervision.

For the moment, at all events, I fail to see how we can reconcile these two clearly divergent opinions and thus extricate ourselves from the difficulties in which we are at present involved. We must not forget, moreover, that we are unaware as yet of the final text of the draft. We do not know exactly what it will contain. In the circumstances, I think it best not to express a final opinion here and now on the question of supervision, but to wait until we are in possession of a definite text which will be submitted to us for a first reading. That will enable us to view the question as a whole.

Generally speaking, however, my Government has some difficulty in adhering to the German suggestions. It remains of opinion that the Council should be given all possible latitude in deciding what measures are to be taken in emergencies, and should not be tied down in advance by hard-and-fast rules. If the Japanese Government was able to subscribe to the decision taken by the Council on December 6th, 1927, endorsing the work of the Committee of Three on the application of Article 11 of the Covenant, it was because this work merely involved the study of the measures which might possibly be taken and not a definite undertaking to be given beforehand. The two things are quite distinct.

It is because of these objections on grounds of principle that the Japanese delegation is unable to say at once whether it can or cannot accept the German suggestions. At the same time, my Government has no objection whatever to the further consideration of these suggestions, but reserves the right to express a final opinion on them in due course.

M. Fotitch (Kingdom of the Serbs, Croats and Slovenes). — The discussion of the German suggestions having led up to the consideration of the question of supervision and sanctions, I feel bound to state the opinion of the Serb-Croat-Slovene delegation on these important matters.

We entirely concur in the statements made at our last session on this subject by the honourable representatives of France and Poland. Like them, we hold that the Council could not take effective measures to secure a return to the military status quo without an efficient system of supervision, the operation and machinery of which would be determined beforehand, and that this system of supervision would naturally entail the application of sanctions to a State which refused to submit to supervision or to carry out the recommendations of the Council. I should like to point out, however — and I believe that on this point there is full agreement between myself and my honourable colleagues of France and Poland — that, in contemplating the system of supervision, my delegation has in view, not only the measures for securing a return to the military status quo, but also the conservatory measures which the Council might take as indicated in the German suggestions.

These measures, as contemplated in suggestion No. I, may be highly important, and the honourable delegate for Germany agreed, at the end of our last meeting, that the Committee might perhaps examine whether those referred to in suggestion No. II are not already covered in part by suggestion No. I. It is of the highest importance that, by measures of supervision supplemented by sanctions, the Council should not only organise the machinery which should speedily be brought into operation, but should be able to satisfy itself that the parties have carried into effect the recommendations which they pledged themselves beforehand to execute and enforce.

The Serb-Croat-Slovene delegation is of opinion that supervision and sanctions should be laid at the foundation of the treaty drawn up in accordance with the German suggestions, towards which we are very sympathetic. In this way only can these suggestions produce practical effects and be set in their proper place, that is to say, in the draft model Treaty of Mutual Assistance.

The Chairman. — If there are no other remarks on suggestion No. II, I propose that we pass to the consideration of suggestion No. III.

Lord Cushendun (British Empire). — May I ask exactly what that means? Let us know where we are! What will the position be with regard to suggestion No. II if we pass on now? Is it not necessary for us to come to some conclusion about it? It appears to me we shall be leaving it on one side. Numbers of criticisms have been passed, and a good many delegations have said it will require sanctions and control, which are not included in any part of the suggestions of the German delegation. I think, with great respect, that it is impossible for us to pass from suggestion No. II without coming to some definite conclusion about it.
The CHAIRMAN. — Lord Cushendun's observations are similar to those submitted on Saturday by M. Sokal. The question is whether, after this first consideration of the German suggestions, we should proceed to a final decision in plenary meeting.

I have already reminded you of the procedure which has been followed up till now. First, a general discussion takes place during which each delegation states its objections to the proposals under review. Then, guided by these indications, the Drafting Committee prepares a definite text, for it is very difficult to reach a clear and exact conclusion at the issue of a first debate.

Thus, the plenary Committee merely decides upon the general lines, and the Drafting Committee is then asked to prepare a definite text with reference to each measure.

If you continue to regard this procedure as satisfactory, we may adhere to it; if not, we will endeavour to have a full debate upon the question at once, in order to reach a final decision forthwith.

Lord Cushendun (British Empire). — I am much obliged to the Chairman for the explanation he has offered, but with the greatest possible respect, I really do not think that procedure assists us very much to arrive at any definite conclusion. There has been a debate on this question of the status quo ante. Different opinions have been expressed. What can the Drafting Committee do? The Drafting Committee, as I have always understood its functions, has to put into correct form conclusions arrived at by the general Committee. We have not arrived at any conclusions, and all the Drafting Committee can do is to summarise the arguments which have been used on both sides and make a report to us, telling us what we have said and what our colleagues have said. We know that already and it will not bring us any nearer to a conclusion.

I respectfully suggest that it would be much better, if there is a difference of opinion, as there appears to be, to take a vote to ascertain whether the majority of this Committee think that this suggestion really offers any contribution to the cause of peace. If the majority hold, as I do, that, anxious as we are to do anything which would prevent aggression and prevent trouble developing into war, nevertheless this particular suggestion would never do that, that it is impracticable and could not be carried out, and that in very conceivable circumstances it might have the effect (as I stated on Saturday) of assisting the aggressor, there is no advantage that I can see in the Drafting Committee telling us that all over again. It would be very much better for us to decide that now and to instruct the Drafting Committee that this particular proposal is not acceptable.

The CHAIRMAN. — I do not believe that there is any very great difference of opinion between myself and Lord Cushendun. According to Lord Cushendun, the Committee should take a vote on the whole of suggestion No. II, whereas I think it preferable, in the present state of affairs, to avoid taking a vote.

The Drafting Committee would, I imagine, work on the following lines: suggestion No. II raises two questions. First, should a text concerning the maintenance of, or return to, the military status quo, be prepared? So far as I remember, two or three delegations have expressed their doubts on this subject in a sufficiently precise and definite manner to show the Drafting Committee clearly what should be done.

Then comes the question of supervision. Here, again, a certain number of delegations have stated their views in a sufficiently definite manner. Some have said that supervision would be impossible. Others have said that supervision seemed possible to them only on condition that the Drafting Committee should be given fresh instructions to go into this question. Once the conditions under which supervision would be possible had been examined, it would then be seen whether some part of suggestion No. II should or should not be embodied in a definite proposal. This is how I imagined we should proceed. If this debate has not been sufficient — and I admit that it may appear to have been insufficient — I have no objection to holding a further discussion on the subject.

M. Rolin Jaquequyns (Rapporteur). — I wonder whether, in view of the observations made on Saturday by various members, in regard to suggestion No. II, the Committee on Arbitration and Security might not, rather than follow the proposal of the honourable delegate of the British Empire, leave it to the Drafting Committee to prepare, if it thinks fit, a text on suggestion No. II for submission to the plenary committee.

In any case, I think that a great deal depends on the instructions we might give to the Drafting Committee as regards suggestion No. III. In this connection, I have just been informed of a highly interesting suggestion, which, as it happens, has been put forward by the British delegation itself.

I may perhaps be allowed to add one remark. Suggestion No. I relates to a dispute in which the League organs would intervene, in order to prevent it from developing into a menace of war or a war. Suggestion No. III relates to cases in which hostilities have begun. These are two perfectly definite cases. For my own part, I have considerable misgivings about the Council of the League of Nations declaring before the world: "This is a dispute, but not an ordinary dispute; it is a dispute involving the danger of war, and suggestion No. II applies."

After such a declaration, gentlemen, in a case where there was perhaps no danger of war, the danger of war might arise because it had, so to speak, been called forth. That is why I think that the opinions of the Committee on Arbitration and Security with regard to suggestion No. III might perhaps enable your Drafting Committee to prepare a text in such terms that suggestion No. II would be covered by the clauses arising out of suggestion No. I or suggestion No. III.
As this is a highly delicate matter and a matter for discussion in the Drafting Committee rather than in the plenary committee, I would venture to ask the honourable representative of the British Empire if he would not be prepared to leave matters in the hands of the Drafting Committee in this connection. Moreover, if the Drafting Committee submits a text which does not meet with his views, it would still be possible to amend it or to resume discussion.

Lord Cushendun (British Empire). — I do not want to prolong the discussion, but M. Rolin Jaquemyns has made an appeal to me and therefore, as a matter of courtesy, I feel bound to answer him. He says that the Drafting Committee might be trusted to draw up some text which would deal with this clause. I have no doubt that the Drafting Committee could do so; but what will be the advantage of that? It will not save us any discussion; it only means that, when the Drafting Committee has produced a text, we shall discuss it then, and it is not really a matter of drafting at all, it is not a matter of drawing up a text, it is a question of a very definite proposal. Is that proposal a possible, feasible one, or is it not? I am quite prepared to give my own view, as I have already done. I am prepared to act upon it. I believe that the majority of the Committee are perfectly clear in their own minds: their views may be on one side or the other. I do not believe that those views will be in the least degree altered by any text which the Drafting Committee can draw up; and therefore, although I am very anxious to respond to any appeal of that sort that may be made to me, I cannot really alter my opinion upon this question, because I am quite certain that referring it to the Drafting Committee will not save us any discussion and will really mean, in the long run, a much greater consumption of time.

M. Rolin Jaquemyns (Rapporteur). — I fancy Lord Cushendun has not quite understood me. Some misunderstanding subsists. I said that the Drafting Committee could submit a text on which we could hold a further discussion. I believe, in fact, that this delicate question could be considered more easily within the narrower circle of the Drafting Committee; it might be that that body would not merely produce a text, but would pronounce upon the substance of the question itself. I would therefore ask Lord Cushendun not to raise any objection if we should ask the Drafting Committee to go a little beyond its terms of reference. If it could consider the substance of the problem, our work might, in my opinion, be expedited.

M. Paul-Boncour (France). — From the explanations offered a few moments ago, it seems clear that, so far as suggestion No. II is concerned, the problem is not easy to solve, and that, whatever form of procedure is adopted, the various delegations continue to stand by the views they have expressed here. We note three different bodies of opinion:

1. Certain delegations object to suggestion No. II on substantial grounds; others, including mine, accept it, but subject to the guarantee of supervision; others regard such supervision as unacceptable.

In the circumstances, I do not see very well how the problem can be solved. A moment ago, M. Rolin Jaquemyns, in a very clear statement, brought out two points which I regard as highly important:

He pointed out that, as regards suggestion No. I, which has already been discussed, an acceptable text could be prepared. He observed further that the situation contemplated in suggestion No. III was quite clear; this is the very important and very useful case of armistice. On this subject the British delegation submitted a text which I, for my part, can unreservedly accept.

Would not these details in themselves provide valuable guidance for the Drafting Committee, which might possibly be able to reach valuable results? I venture to make that suggestion to my colleagues.

The CHAIRMAN. — I agree with M. Paul-Boncour that the statements made in this Committee by the various delegations might provide fairly definite guidance for the Drafting Committee. In this connection, I must point out that we cannot take a vote, as our decisions must be unanimous. That is why I felt that the views I had expressed did not differ very appreciably from those of Lord Cushendun. In point of fact, the statements made by the various delegations are, for all practical purposes, tantamount to a vote, and I consider that we must be guided by them. I believe, moreover, that this is not inconsistent with what M. Paul-Boncour has said on this point. I hope, therefore, that this will be satisfactory to Lord Cushendun.

Lord Cushendun (British Empire). — I would only say just this: I had expressed a certain view with regard to procedure. In consequence of what has been said, I have not in any way modified that view. I hold to it still; nevertheless I bow respectfully to any opinion that the Committee decides and shall accept whatever decision my colleagues may come to.

The CHAIRMAN. — As all League of Nations decisions have to be taken unanimously, except those concerned with questions of procedure, and as this question is one of procedure, we will permit ourselves to outvote Lord Cushendun and will now examine suggestion No. III.

13. German Delegation’s Suggestions. Discussion on Suggestion No. III.

Suggestion No. III. — In the case of hostilities of any kind breaking out without, in the Council’s opinion, all possibilities of a pacific settlement having been exhausted, the
States might undertake in advance to accept, on the Council's proposal, an armistice on land and sea and in the air, including especially the obligation of the two parties in dispute to withdraw the forces which might have penetrated into foreign territory and to secure the respect of the sovereignty of the other State.

Questions submitted by the Rapporteur with reference to Suggestion No. III.

1. Should the Council have power, in virtue of an agreement to be concluded between States, to order the parties to accept an armistice when hostilities have broken out between the said States?

2. Should it be laid down that the Council will first order the parties to withdraw any forces which may have penetrated into foreign territory and to respect the sovereignty of the other State, and that it will only proceed to fix the other conditions of the armistice if the parties fail to reach a direct agreement within a specified time?

3. Should the execution and observance of the armistice conditions be placed under the supervision of the Council?

The Chairman. — This suggestion is very similar in character to the previous one. It also touches on the question of control regarding which several delegations have expressed their opinions. It remains to be seen whether other delegations will have observations to make upon other points.

The British delegation submitted the following amendment:

"In the case of hostilities breaking out without, in the Council's opinion, all possibilities of a pacific settlement having been exhausted, the Council shall forthwith take the matter into consideration and if, having due regard to the equities of the case and the consequences to the parties, they think fit, they may propose and the States might undertake in advance to accept, on the Council's proposal, to cease hostilities, to respect the territory and the sovereignty of the other State and the obligations attaching by treaty to any demilitarised area, and to withdraw the forces which might have penetrated into the territory of the other State or into any demilitarised area."

Lord Cushendun (British Empire). — I do not know whether it is necessary for me to say a word recommending the amended form of this proposal, but I do so, as I can assure M. von Simson, with an earnest desire to accept as large a portion as is possible of the proposals which he has made. I am advised that the suggestion in the form in which he has presented it would be open to very grave objection, particularly from the use of the word "armistice", because I am told that an armistice implies a number of subsidiary questions which would require to be considered and decided, and that the purpose which the German delegation evidently has in view would be quite as well served by using language not employing the word "armistice", but "cessation of hostilities", which is really what is desired. What we want to do at the moment when a dispute in its early stages has gone over the border-line between peace and war is to bring about a cessation of hostilities on both sides in order that the machinery of the League may have time and opportunity to be brought into play. We should have the "cease fire". That is what it comes to and, if we confine ourselves to that language, we escape the complicated questions which might arise from the use of the word "armistice", and which, among other things, would very likely delay the operation of the Council when the crisis arose. If the Council were called upon to call for an armistice, they would be concerned with very difficult questions as to these subsidiary matters about which the facts might be very difficult to ascertain, and the possibilities are that, if that delay took place, it might defeat its own object. I therefore very much hope that the amended form in which I have ventured to present this proposal will commend itself not only to the Committee, but to the German delegate himself.

There is one other matter which I had incorporated in this amended text, referring, as the Committee will see, to provision with regard to demilitarised areas. Demilitarised areas are an important feature in the Europe of to-day, and I think it is very necessary that, if an aggressor is to be called upon to cease hostilities and to retire from the country which he has invaded, the territory to be protected by the armistice ought to include, not only the territory under the sovereignty of the State attacked, but also — in those places where they occur — any demilitarised area which may have been occupied by the forces of the invader. It is for that reason that I have added to the language employed in the original suggestion a provision with regard to demilitarised areas, which I think the Committee will probably come to the conclusion ought to be included.

M. von Simson (Germany). — I wish to thank Lord Cushendun, and am very pleased to note that the British proposal accords very largely with the spirit of our suggestion. I am reading Lord Cushendun's proposal for the first time and I may be allowed to reserve it for closer attention. I see no objection to it at first sight, but I think that it will be for the Drafting Committee to examine texts more closely.

M. Undén (Sweden). — With regard to suggestion No. III, I should like to add a few words of explanation to the observations I submitted to the Committee in writing (Annex 4). It is true, as was said at the previous session, that a Government which harbours aggressive intentions would probably be little inclined to accept the Council's recommendations for an armistice. But, although that is so, we must take account of certain psychological and
moral factors which could not fail to impress public opinion in a country whose Government was inspired by bellicose ambitions. If that Government refuses to accept an armistice proposed by the Council under an international agreement duly adopted by the States concerned, it will put itself in the wrong in the eyes of public opinion at home, and will find it difficult to persuade its own people that the other party is the aggressor.

We can also imagine other cases in which neither party has any direct wish to provoke war, but in which the tension between them is so acute that they will have recourse to military measures which will bring about hostilities. In such case, it might be difficult to decide which party initiated hostilities. Members of the Council not involved in the conflict may hesitate to declare either party guilty of aggression. On the other hand, all States not concerned in the conflict will have a common interest in arresting hostilities lest they themselves be dragged into war.

In such circumstances, it should be easy for the Council to come to a unanimous decision and to propose to the parties the cessation of hostilities or the conclusion of an armistice. In both the countries concerned, there will certainly be strong tendencies in favour of the Council's intervention. In order to strengthen these tendencies among public opinion, the Council will have to supplement its recommendation for an armistice by an offer to open an impartial enquiry into the origin and causes of the hostilities, as soon as circumstances permit.

In a case in which both parties genuinely consider themselves the victim of an aggression, such an offer by the Council could not fail to make them more inclined to accept an armistice, and would undoubtedly greatly strengthen the pacific tendencies in the countries concerned.

The procedure resorted to on the occasion of the Greco-Bulgarian conflict constituted a precedent of good omen.

The question is not exclusively technical and military. If military experts are consulted, they may see that it is impossible to induce two parties to suspend hostilities that have already broken out. The problem, however, must be regarded from a general point of view. We must be careful not to under-estimate the effect of a more or less unanimous international opinion on nations involved in a dispute. A Government cherishing aggressive intentions cannot count with certainty upon the support of public opinion in its own country if it is compelled to give a categorical reply to the Council's proposal for an armistice.

For these reasons, I consider the third German suggestion of great practical importance.

M. Paul-Boncour (France).—I only wish to say that I entirely agree with what Lord Cushendun has said, and I may add that I have listened with all sympathy to M. Undén. However, I must have time for reflection before making up my mind. I repeat, however, that I am in full sympathy with their statements.

General de Marinis (Italy).—After my remarks of yesterday, there is no need for me to say that I am unable to accept the third German suggestion in its present form. I will not enter into a detailed discussion of the possibility of an armistice and the question whether we are dealing with a military or political question. I shall only note in passing that it is not easy nowadays to imagine a Government undertaking any serious military action without having prepared a country both politically and psychologically. As I have said, I will do no more than touch upon that question.

I would add that I am quite willing to accept Lord Cushendun's proposal.

The Chairman. — This exchange of views has been very significant and will have shown the Drafting Committee the lines on which to proceed.

14. German Delegation's Suggestions. Discussion on Suggestion No. IV.

Suggestion No. IV.

"The question should be considered whether the above-mentioned obligation should be undertaken only in the case of a unanimous vote of the Council (the votes of the parties to the dispute not being counted), or whether the majority, simple or qualified, might suffice in the matter. Furthermore, it would be considered in what form the obligations would have to be drawn up in order to bring them into conformity with the Covenant."

Questions submitted by the Rapporteur with reference to Suggestion No. IV.

1. Should the Council resolutions concerning the cases mentioned in the above suggestion be adopted unanimously (not counting of course the votes of the representatives of the parties to the dispute), or would a majority vote, simple or qualified, be admissible, at all events in certain cases? If so, in what cases?

2. Would the Council's action in virtue of the above-mentioned agreements between States be in conformity with the Covenant?
The CHAIRMAN. — The fourth suggestion concerns a question of principle and touches at the very root of the Covenant. I do not wish to anticipate our discussion and shall only say that the question has arisen several times in the course of our work. Hitherto, we have always determined it in the negative and have emphasised the difficulty of Council decisions being taken otherwise than unanimously.

I would add that our difficulty has always been in regard to sanctions that the Council might subsequently contemplate. The question has always been what to do in case of the application of Article 16. Would not a decision doing away with the principle of unanimity destroy the guarantee in Article 16?

M. ROLIN JAEQUEMYNS (Belgium): For my part, and speaking no longer as Rapporteur, I may say that I entirely share the opinion of the Chairman on the part traditionally played by the Council, which, moreover, is in conformity with the spirit of the Covenant. As we know, the Council always acts unanimously. I think it would be very dangerous in connection with these questions, which are in themselves difficult enough, to modify this procedure, however slightly.

If you agree to maintain the rule of unanimity, there will be nothing to draft; the Council will act as it has acted in the past.

With regard to the second question, this will only arise if the Council is permitted to take decisions which are not unanimous. If the latter point is decided in the negative, the difficulty will no longer arise.

M. VON SIMSON (Germany). — In formulating its fourth suggestion, the German delegation intended to give its proposals the utmost possible effect. We are of the opinion that this question is specially important, because it concerns measures which have to be taken rapidly. Further, the danger of altering the existing system did not seem to us very great, because we are in no case concerned with fundamental decisions, but only with provisional measures. This point was mentioned by the Rapporteur. Nevertheless, we were careful to submit this suggestion merely as a proposal to be examined. It has now been considered, opinions have been expressed, and the general view appears to be in favour of maintaining the principle of unanimity. As it is our wish to see our suggestions applied, I do not insist on this question.

Dr. RIDDELL (Canada). — I listened with great interest to the proposal of the honourable representative of Belgium and, later, to the statement of the honourable representative of Germany. This principle of unanimity is a cherished one in our Canadian constitutional development. It has long been recognised as fundamental in the relations between the various members of the British Commonwealth. I am very pleased that we are going to stand firm on this question of unanimity. The successful intervention of the Council, once hostilities have broken out, must be backed by world public opinion, and world public opinion is much more easily obtained if the Council has been unanimous.

The CHAIRMAN. — This short discussion has been sufficient to show how we should proceed. We have concluded the examination of the questionnaire relating to the German suggestions.

The meeting rose at 7.45 p.m.

FIFTH MEETING

Held on Tuesday, July 3rd, 1928, at 10.30 a.m.

Chairman: M. Beneš (Czechoslovakia).

15. Adoption of the Introductory Note to the Conventions on Conciliation, Arbitration and Judicial Settlement (Annex 8, II a).

(The introductory note was examined.)

Part III.

The CHAIRMAN. — The Drafting Committee proposed the following text as paragraph 2 of Part III:

"There is one clause common to Conventions A and B with regard to which the Committee desires to avoid all possibility of confusion. Article 2 of these Conventions alludes to a special procedure. The reference is to procedures laid down by conventions on particular subjects, and it was the intention of the Committee that the term should preserve the meaning it has in the Locarno Treaties."

Some delegations have moved for the omission of this paragraph, the reason being that mention is made of the Locarno Treaties, the meaning of which it appears to interpret to some
extent. As the matter is of little importance, and as hitherto we have always avoided expressing our own views in regard to the interpretation of the Locarno Treaties, it appeared wiser to omit this paragraph and merely to mention it in the Minutes.

General de Marinis (Italy). — With reference to paragraph 4, sub-paragraph 4, I suggest that it would be better, instead of saying that a State may specify that it is willing to be judged only by an arbitral tribunal, to say “that it is willing to have recourse only to an arbitral tribunal”. A similar amendment should be made at the end of the same paragraph.

The amendment was adopted.

M. von Simson (Germany). — The text at the first reading of the introductory note contained two chapters, IV and V, concerning the conclusion of Conventions on Arbitration and Judicial Settlement and accessions to the optional clause of Article 36 of the Statute of the Court. Are those chapters to be retained?

The Chairman. — That is so.

The introductory note was adopted.


The Chairman. — We have already had explanations from M. Politis with regard to these three treaties, and I do not think it is necessary to indicate the changes afresh. Moreover, as I mentioned yesterday, many of the changes are identical with those made in Conventions A, B and C. There were, however, certain questions raised with reference to the special proposals made by the delegations of the Kingdom of the Serbs, Croats and Slovenes, Poland and Turkey. We decided yesterday that an opportunity would be given to the representatives of those delegations to make statements with reference to their proposals during the general discussion before we proceeded to vote on the adoption of the Convention.

M. Sokal (Poland). — I should like to make a statement containing a few general observations concerning model Treaty D.

In the course of the discussions which took place yesterday, it was pointed out that there was a difference between model D and drafts A, B and C. The latter constitute Conventions which are open for accession as they stand, whereas model D can only be regarded as an indication of the general lines on which the parties may negotiate with one another.

Moreover, whereas Conventions A, B and C possess a general character, model D could only serve as a basis for treaties of a special regional character which would provide for mutual guarantees.

When negotiating a treaty of this nature, the Powers concerned would evidently have full liberty, while conforming to the general ideas of model D and maintaining the principle of mutual guarantee, to stipulate for certain provisions having reference to cases of flagrant violation such as might appear necessary to them in order to ensure their security, having regard to the special conditions prevailing in their region.

I should be glad if you would be good enough to have this statement inserted in the Minutes.

The Chairman. — M. Sokal’s statement will be inserted in the Minutes.

M. Fotitch (Kingdom of the Serbs, Croats and Slovenes). — On behalf of the Serb-Croat-Slovene delegation, I wish to request that a clause be inserted in Article 3 of model Treaty D similar to that which appears in Article 4, paragraph 3, of the Rhine Pact, in connection with cases of flagrant violation.

In making this proposal, we have endeavoured to provide an additional guarantee for the future signatories of the Treaty of Mutual Assistance, since, in our view, such a clause would be very necessary to reassure the signatories. The clause is not directed against any party, it merely contemplates the case of flagrant and premeditated aggression which might be facilitated in the absence of such a clause; a party might count on the delays which are inevitable for the procedure before the Council and on the de facto advantages which it would thereby secure.

I wish to thank the Drafting Committee for the efforts it has made to satisfy our request. Although the clause has not been inserted in the text of model Treaty D—which we requested and should, of course, have preferred — its importance is not, we think, diminished owing to the fact that it is only reproduced in the introductory note. In view of the character of Treaty D, which establishes the principle of mutual assistance and yet at the same time is not in its present form open for accession by any State, we consider that the principles established in the preamble will likewise be of great importance for the conclusion of treaties of mutual assistance, drawn up in accordance with this draft and we trust that a large number of States will bear them in mind.

An important principle is contained in the clause relating to flagrant violation, and one of my Government and the Serb-Croat-Slovene delegation consider that this clause is an essential complement to the Treaty of Mutual Assistance.

We request that this statement be inserted in the Minutes.

The Chairman. — M. Fotitch’s statement will be inserted in the Minutes.