Lord Cecil (Great Britain) associated himself with the observations of the President. He pointed out that under Article 11 the Council was not called upon to arbitrate; its role was mediation and persuasion. The success of the settlement arrived at by the Council depended upon the parties. “It is easy for them”, he said, “if they desire to do so, to destroy the work of conciliation on which we have been engaged. If it did, the party that so acted would bear a heavy load of responsibility before the public opinion of the world.”

M. de Madariaga (Spain) noted that a first stage had been accomplished; in his opinion, however, the conflict had proved the necessity for recasting as quickly as possible the methods available for dealing with all international difficulties.

M. Matos (Guatemala), speaking as “a representative of a small Power”, said he was anxious that the principles of international law should be safeguarded. It was inadmissible that disputes arising between States should be settled by other than pacific means. Nor could the respect for and the execution of treaties between countries be allowed to depend upon the will of one of the parties. In particular, the resort to measures of coercion for the recovery of contractual debts was contrary to the principles of the Porter Resolution adopted at the Hague Conference of 1907. Although the protection of the lives and property of nationals abroad was a generally recognised obligation, the fulfilment of that obligation must be subordinated to respect for the fundamental rights of States. The Guatemalan representative added that he had voted for the resolution in the spirit which was reflected in the words of the President and because it embodied the principle that the military occupation of the territory of a Member of the League could not be used by another Member to impose direct negotiations on questions pending.

The German representative, M. von Mutius, expressed his satisfaction at the settlement which had been obtained, recalling that the pacific settlement of disputes was the principal task of the League.

M. de Chlapowski (Poland) emphasised the complicated and special character of the conflict which had obliged the Council to adopt a very exceptional procedure and methods.

M. Gonzales-Prada (Peru) said that nothing in the text approved by the Council must be interpreted as affecting certain principles without which the existence and the rights of weak countries would not have sufficient security; some of these principles he set forth as follows:

1. No State has the right to effect the military occupation of the territory of another in order to ensure the execution of certain treaties;
2. No State is entitled to oblige another — having invaded its territory — to enter upon direct negotiations on the bearing and legal value of treaties previously existing between the two States;
3. The exercise of the right possessed by each State to ensure the protection of the lives and property of its nationals must be limited by respect for the sovereignty of the other State; no State being entitled, in order to provide such protection, to authorise its military forces to penetrate into the territory of the other for the purpose of carrying out police operations;
4. The fact that a State has certain rights, claims, economic concessions, etc., in regard to another State does not entitle the former to effect the military occupation of the territory or to seize the property of the debtor State. Any recovery of debts by compulsion is illicit, in accordance with the principles accepted by the Second Peace Conference (The Hague, 1907).

M. Garay (Panama) noted that the resolution was purely practical in character and could not be invoked as a precedent. While far from denying the right of another State to safeguard the lives and property of its nationals abroad, he pointed out that this right must not be regarded as absolute, and ended as soon as it began to encroach upon the sovereign rights of a foreign State, rights which could not be disregarded. He recalled that the Porter proposal approved in 1907 at The Hague was, in its turn, based upon the Drago doctrine, which declared that it was not allowable to use compulsion for the recovery of public debts of States in general. He added that the intention of the Covenant was to deprive the signatories of the right of taking the law into their own hands. Any return in international life to methods of force must be viewed with the greatest anxiety.

The special character of the question having been emphasised by several speakers, the Chinese representative, M. Sze, declared that his country could not be expected to admit that the operation of treaties and of accepted principles of international law should stop at the border of Manchuria.

**Constitution of the Commission of Enquiry.**

After the session, the President studied, with the assistance of the Secretary-General, the question of the constitution of a Commission of Enquiry. He submitted first to the parties, then to the other Members, a list of five names, which was finally approved on January 14th, 1932.
The Commission is constituted as follows: Count Aldrovandi (Italian), General Claudel (French), Lord Lytton (British), General McCoy (American), Dr. Schnee (German).

After electing Lord Lytton as Chairman, it left for the Far East at the beginning of February. It arrived in Japan on February 29th.

JAPANESE OPERATIONS IN THE CHINCHOW DISTRICT.

During the closing days of December, the Japanese Government, in a series of communications, pointed out that the security of its forces was, in its opinion, imperilled by the operations of bandits in Manchuria. On December 27th, in a declaration which was communicated to the Council, the Government stated that the increased activity of marauding bands threatened to destroy completely all peace and security throughout the whole of Southern Manchuria. In these circumstances the Japanese troops had begun a general movement with a view to a more extensive campaign against the bandits, in particular in the region of Chinchow. The Chinese Government drew attention to the advance of the Japanese troops towards that town and, on December 26th, asked the President-in-Office of the Council to take effective measures to enforce the second paragraph of the resolution of December 10th.

In forwarding this communication to the Secretary-General for the information of the Members of the Council, the President-in-Office of the Council said that he had already told the Chinese representative that “the French Government, and, to his knowledge, several other Governments also, had already taken steps at Tokio to draw the Japanese Government’s attention to its engagement under the resolution of December 10th that it would refrain from any initiative that might aggravate the situation.”

On December 31st, the Chinese Government forwarded a memorandum to the effect that the Japanese army continued to advance to the west of the River Liao, and that the Japanese forces in Manchuria were being increased.

On January 3rd, 1932, the Japanese troops entered Chinchow, after Marshal Chang-Hsueh-Liang had ordered his forces to retire behind the Great Wall. The Japanese army then advanced as far as Shanghaiikwan at the foot of the Great Wall.

On January 14th, the President of the Council, in notifying his colleagues officially of the appointment of the Commission of Enquiry under the resolution of December 10th, said:

“The conditions under which the Commission will begin its work are by no means such as we might justifiably have hoped for when we separated. But, in view of the solemn undertakings embodied in the two resolutions unanimously adopted by the Council, which form a definite guarantee against the pursuit of any territorial aims in Manchuria, we may regard the exceptional situation as a strictly temporary one, which must in normal circumstances end as rapidly as possible under the conditions laid down in the resolution of September 30th.


On January 25th, 1932, the Council met again in ordinary session. When the agenda was proposed for adoption, the Chinese representative asked that the Sino-Japanese question should be discussed at the afternoon’s meeting, in view of the very critical situation existing between China and Japan, especially as it seemed that the Japanese military and naval forces were at the very doors of China — namely, at Shanghai where the lives of thousands of foreigners were being threatened as well as those of hundreds of thousands of Chinese, and where hundreds of millions of pounds of international capital were invested.

At the afternoon meeting on January 25th, the Chinese representative described the situation in the following terms:

“Since the Council adjourned six weeks ago, the aggression has been relentlessly continued, until, in the words of the American Secretary of State, ‘the last remaining administrative authority of the Government of the Chinese Republic in South Manchuria, as it existed prior to September 18th, 1931, has been destroyed’. Chinchow and the territory to the south, including Shanghaiikwan, have gone the way of Mukden, Changchun, Antung, Yinkow, Kirin, Tsitsikar and other cities. Japan is now invading the province of Johol, hundreds of miles from the railway from Mukden to Peiping, and endangering cities in north, central and even south China, as witness the latest threats to occupy Foochow, Tsingtao and Shanghai — points far away from the borders of what hitherto has been known as Manchuria.”

The Japanese representative said:

“The representative of China has just said that a vast area was in Japanese military occupation and that, contrary to the resolution adopted by the Council, Japan had invaded the whole of Manchuria, which was completely occupied by Japanese troops. That is not the situation. Is it conceivable that so vast a territory as Manchuria could be occupied by our troops numbering 25,000 men at the most? That is not possible. Manchuria is still Manchuria, with its Chinese population. The Mukden authorities alone have felt the results
of the recent events. There is, therefore, no complete occupation by our troops. The Chinese authorities remain, although there have been changes to some extent in the local authorities...

"With regard to Shanghai, I realise that the situation is extremely grave, but the responsibility is not ours."

The Japanese representative then gave particulars of the incidents which had occurred at Shanghai since January 10th. He added:

"One newspaper, an organ of the nationalist party at Shanghai, even went so far as to express regret that on the occasion of the attempt against my sovereign, another carriage only had been damaged. These disgraceful words caused profound emotion in Japan, particularly in the Japanese colony in Shanghai. Two days later, Japanese monks were attacked and nearly killed by a Chinese crowd. The feeling of exasperation of the Japanese nationals, which for a long time had been kept in check, broke out in spite of the efforts of the authorities to calm them, and thus unfortunate incidents occurred, which I communicated to the Council this morning..."

This communication mentioned, in particular, that on January 20th, a group of Japanese had set fire to the Chinese factory where the workmen who had attacked the Japanese monks were employed; that there had been a clash between the Chinese police and the Japanese crowd; that further disturbances had occurred in the afternoon; and that the Japanese Government had decided to send a cruiser and a number of destroyers to Shanghai, together with reinforcements, some 400 men strong.

He concluded his statement by an exposition of the policy of the Japanese Government in regard to the principle of the "open door" in Manchuria, and quoted in this connection the words of the Minister for Foreign Affairs, spoken in the Japanese Parliament on January 21st:

"Japan harbours no territorial designs in Manchuria, and she will uphold the principles of the 'open door' and equal opportunity, as well as all existing treaties relating to that territory. What Japan desires is only to secure peace and order for Manchuria and to make that region safe both for Chinese and foreigners and open to all for economic development."

After a reply by the Chinese representative, who observed that his country had been invaded three times by the Japanese since 1914, so that it was not surprising that the Chinese people should be exasperated and irritated beyond all expression, the President said that some of the facts referred to by the parties occurred before the resolution of December 10th and others after it; the latter category of facts, in which were included the incidents, fears and threats to which the Council's attention had been drawn in connection with Shanghai, would have to be considered by the Council, and the latter would have to study what measures could be taken. The Council would undoubtedly be unanimous in at once urging the two Governments to take all the necessary measures to prevent Shanghai from becoming a new centre of trouble.

On the following days the members of the Council, other than the representatives of the two parties, proceeded to an exchange of views. The Chinese and Japanese delegations, moreover, informed the Council that clashes between the forces had taken place in the suburbs of Shanghai. As a result, the Chinese representative addressed to the Council an appeal, dated January 29th, invoking fresh articles of the Covenant.

II. APPEAL OF THE CHINESE GOVERNMENT UNDER ARTICLES 10, 11 AND 15 OF THE COVENANT.

The new appeal of the Chinese Government was worded as follows:

"Under instructions from my Government, I have the honour hereby to give notice as follows:

"1. A dispute between two Members of the League of Nations — to wit, China and Japan — arising from the aggression of the latter against the territorial and administrative integrity and political independence of the former, in violation of the provisions of the Covenant of the League of Nations, exists.

"2. This dispute has not been submitted to arbitration or to judicial settlement in accordance with any of the articles of the Covenant.

"3. The said dispute has now reached a stage when it is likely to lead to an immediate rupture between China and Japan.

"4. China hereby invokes the application (not in derogation of the measures taken, or which may be taken, by the League in the exercise of its functions under Article 11, but in addition thereto) both of Article 10 and of Article 15 of the Covenant to the said dispute, and formally submits the said matter to the Council for all appropriate and necessary action under both of the said articles."
The Council immediately held another meeting. After the Secretary-General had read China's appeal, the President referred to the fact that discussions had taken place between the members of the Council other than the parties, during the previous days. He had drawn up a declaration which, if events had not unfortunately taken the recent serious turn, might have been expected to conclude, for that session at any rate, the dispute engaging the Council's attention.

“This declaration”, said M. Paul-Boncour, “began by stating that the resolutions of September 30th and December 10th retained their full executory force. We considered that the resolution of December 10th, by which the Council's action was indicated and defined, made it unnecessary for us, so long as no new facts occurred, to pass a fresh resolution pending receipt of the report from the Commission of Enquiry.

“We said that, in these circumstances, we had no intention of relaxing the continuous efforts which, with the co-operation of the parties and the invaluable support of the United States Government, we had pursued during the past four months to bring about a just solution as speedily as the complicated nature of the facts permitted. We considered that, so long as the present situation remained unchanged, not only was there a constant threat to the maintenance of peace in the Far East, but also the feeling of uncertainty and suspense which was inevitably engendered in the minds of the citizens of China and Japan, as well as in those of the foreigners settled in the Far East, would remain unallayed. That situation was deplorable in itself, and especially deplorable inasmuch as it added to the difficulties which were hindering the world in its efforts to recover from the present economic depression.

“We reminded the two countries that, entirely irrespective of the solemn undertakings, which represent legal obligations, good relations between States could only be secured by co-operation and mutual respect, that no permanent solution could be achieved by force, whether military or merely economic, and that the longer the present situation continued, the wider the breach between the two peoples would become and the more difficult the solution would be, with all the disasters that that would mean, not only for the two nations directly involved, but for the world in general.

“We said that we were convinced that the League of Nations could only exist and develop in an atmosphere of truth and that we owed it to truth not to overestimate the results which the League had obtained and to acknowledge that, to the League's regret and despite its efforts, the de facto situation had not improved, but that the reverse was the case. At the same time we were justified in pointing out that the League's efforts had, in a certain measure, secured results which likewise should not be underestimated.

“We noted that an advance had been made in the direction of conciliation, since a Commission of Enquiry, which both Powers had freely accepted, had been set up, and that the Commission had begun work and was on the point of departing early next week.

“We noted also, as a tranquillising and hopeful factor, the words spoken in the Council by the Japanese representative, who, moreover, explicitly referred to the assurance given by the Japanese Minister for Foreign Affairs—namely: 'Japan harbours no territorial designs in Manchuria and she will uphold the principles of the open door and equal opportunity, as well as all existing treaties relating to that territory'.

“We further mentioned the very important Note addressed on January 8th to the two Governments concerned by the United States Government, and I may be allowed to say how highly we appreciated the fact that in that Note the Government of the United States expressed its belief that the work of the Commission set up by the Council might be expected to facilitate the solution of the existing difficulties. In the same Note the United States Government called the attention of the parties to the treaties that are binding upon them. We, from the League standpoint, asserted that a settlement of the difficulties between the two Governments, Members of the League, must not be sought in arrangements inconsistent with international obligations, more especially those arising out of Article 10 of the Covenant, by which they have undertaken to respect the territorial integrity and political independence of all Members of the League.

“We terminated our declaration by stating that it would be impossible for the League to endorse a settlement secured by methods at variance with the obligations mentioned above.

“I have made the declaration we drew up known, notwithstanding the new request which has been brought before us and which, while imposing other duties on the Council, places the question on a new plane (that of Article 15), because I consider, in conformity with the spirit of the League and with what, I believe, is a correct legal interpretation of its procedure — it has repeatedly been confirmed us such, in particular in a report of 1927 that was at that time regarded as a valuable guide for the League — that the procedure
mentioned in Article 15 does not have the effect of suspending the action which is being taken to reach a friendly settlement and to prevent hostilities and which the League must pursue under Article 11.

"Subject to this express reservation, I do not think that it is within the Council's power to escape the duty imposed upon it. It is clear from the terms of the Covenant, which is our common safeguard, that, as soon as one of the parties appeals to Article 15, the procedure stipulated in that article must at least be initiated."

The Chinese representative stated that Japan's disregard of her engagement under the Covenant was flagrant. The use of armed force without submitting the entire matter to arbitration or judicial settlement, and without awaiting the outcome of enquiry by the Council, was in direct violation, not only of the spirit, but of the letter of the Covenant. As a victim of persistent external aggression in one of its most violent forms, China could no longer refrain from seeking remedies under other provisions in addition to those of Article 11.

He added that, according to news he had received, the reply of the Chinese Municipal Government (regarding Sino-Japanese clashes in the past few days) was received by the Japanese Consul-General with satisfaction at 1 p.m. on January 28th. At 11.20 p.m. the Municipal Government and the Bureau of Public Safety had received an ultimatum from the Japanese Naval Commander demanding the withdrawal of Chinese troops. While the Chinese authorities were protesting against such an ultimatum, the Japanese troops commenced firing with machine-guns on the Chinese troops in the Chapei-Jiukiang Road district. This took place at 12.20 a.m. Fighting was still continuing.

The Japanese representative, in reply to this statement, explained that, according to information in his possession, the Japanese marines did not take the initiative to land. The landing was preceded by a council of the officers commanding the foreign forces. This council assigned to the different forces the areas that they were to protect. Under this decision the Japanese commanding officer landed marines, and the latter were attacked by the Chinese troops. That was the immediate cause of the Shanghai incident, as a result of which China had invoked Article 15 of the Covenant.

In his request the Chinese representative had also invoked Article 10. He had stated that Japan had never submitted the present dispute to arbitration or pacific settlement according to the obligation defined in Article 10. That was quite correct. But it was common knowledge that Japan was not prepared to accept arbitration with anyone indiscriminately. That was why she had not up to the present been able to sign Article 36 of the Statute of the Permanent Court of International Justice.

The Chinese representative had also accused the Japanese of committing an act contrary to the principle of respect for territorial integrity. M. Sato's reply was that in the Far-Eastern zones they had already had similar incidents followed by similar procedure. In 1927, for instance, there was a bombardment in which the Japanese had taken no part. They had now unfortunately been obliged, in order to protect Japanese nationals and residents, to resort to a measure of legitimate defence in view of the conditions prevailing in China.

The Japanese representative then made certain observations raising legal points regarding the admissibility of the new Chinese request.

The President of the Council pointed out that it was not for the Council, when a request had been submitted to it under Article 15 of the Covenant, to decide whether this request was justified. In accordance with Article 15, it was sufficient for one of the parties to notify the Secretary-General of a dispute for the latter to be compelled to make all necessary arrangements for a full investigation and consideration thereof.

The President therefore asked the Secretary-General if he had yet considered how information could speedily be obtained for the Council.

Arrangements made by the Secretary-General in execution of Article 15 paragraph 1: Constitution of a Committee of Enquiry at Shanghai.

On the following day, January 30th, the Secretary-General proposed that the Members of the Council, other than the parties to the dispute, who had official representatives at Shanghai should instruct those representatives to form a Committee to report on the situation in that city and neighbourhood, and on its causes and development. The Secretary-General added that he did not propose for the present to take any other steps with a view to an enquiry, as those which the Council had already taken seemed to him to be adequate.

The Committee of Enquiry proposed by the Secretary-General was immediately constituted at Shanghai. The Government of the United States authorised its Consul-General to co-operate in the work. On February 6th, the Committee forwarded its first report to the Secretary-General. This report and the subsequent reports submitted by the Committee are contained in a special document (document A. 3.1932.VII) distributed to the Assembly, so it would not appear necessary to attempt to give a summary of them here.

On February 1st, the Chinese Government denied foreign Press reports to the effect that China was prepared to declare war upon Japan. China was merely exercising the right of self-preservation.
which is inherent in the sovereignty of the Chinese State". On the same day, the Japanese representative on the Council communicated to the Secretary-General an official telegram from Tokio concerning an interview which the Minister for Foreign Affairs had on January 31st with the Ambassadors of Great Britain, the United States and France, at which he supplied them with information concerning the origin and development of the incidents at Shanghai. After stating that the truce concluded by the Consuls-General of Great Britain and the United States which was to take effect on January 29th at 8 p.m. had been broken by the Chinese, and that Marshal Chiang-Kai-Shek was bringing up the 19th Army and the 3rd Defence Division, the Minister had asked the three Powers to instruct their several representatives in Shanghai to make an effort to induce the Chinese to cease hostilities and withdraw their troops.

BRITISH COMMUNICATION CONCERNING THE ACTION OF THIRD POWERS AT SHANGHAI.

On February 2nd, the Council met at the request of the British representative. The latter stated that his Government thought it impossible that the present situation in the Far East should be allowed to continue, where over a wide area around Shanghai "war in everything but name was in progress".

Mr. Thomas added:

"To such a state of things the Members of the League of Nations cannot be indifferent. If it is allowed to go on, the Covenant, the Pact of Paris and the Nine-Power Treaty must inevitably lose the confidence of the world.

"It is not without significance to Members of the League that the United States Government take entirely the same view of the situation. In all the efforts for peace put forth by the Council during the last four months, we have been happy to receive the wholehearted sympathy and support of the United States. On several recent occasions the Council has pressed its Members to second its efforts by diplomatic representations to the two Governments concerned. His Majesty's Government and other Governments Members of the League have shown themselves ready to respond to that appeal. Unfortunately, these efforts have been so far unsuccessful. His Majesty's Government therefore, in concert with the Government of the United States, have decided to make a far further effort to bring the present lamentable state of things to an end, and they trust that other Governments will see their way to take similar action. They have accordingly presented at Tokio and Nanking a formal request:

"1. That all acts of violence and preparations for hostilities shall be brought to an end;

"2. That in the Shanghai area both sides shall withdraw their troops and that, as a further protection to the International Settlement, a neutral zone shall be arranged;

"3. That negotiations shall then be immediately begun to settle outstanding differences in the spirit of the Pact of Paris and the Council resolution of December 9th last."

The British representative then communicated the text of a statement which the British Government was making at the same time in the House of Commons. This declaration referred, in particular, to the events at Shanghai and to the despatch by the British Government of military and naval reinforcements. Mention was also made of the fact that, on the previous day at about 11 p.m., Japanese warships had opened fire with several rounds of live shell in the direction of Nanking. After reading this statement, the British representative added that the British Government was satisfied that the measures it had taken would be approved and supported by all Members of the Council.

The President, M. André Tardieu, replacing M. Paul-Boncour, who was absent from Geneva, said that the French Government had instructed its representatives in Tokio and Nanking to support the action taken by the United States and Great Britain. M. Grandi (Italy) made a similar communication. M. von Weizsäcker (Germany) said that he would at once inform his Government, so that the latter might issue immediate and appropriate instructions to its representatives in the two capitals.

M. Yen (China) said that his country was deeply appreciative of the steps taken by the Powers.

M. Sato (Japan) reminded the Council that it was the Tokio Government which had asked Great Britain, France and the United States to confer immediately on the action that might be taken at Shanghai to put an end to hostilities. He also observed that the idea of creating a neutral zone between the two armed forces had also been put forward by the Japanese representative at Shanghai. With regard to the bombardment of Nanking, his own information was to the effect that the Nanking forts had fired three rounds at the very time when a detachment of Japanese
marines had been attacked, and that, in order to assist the marines until they re-embarked, two
Japanese vessels had fired a few rounds at intervals.¹

After these statements, the President observed that, as regarded the local incidents, the Council
could only await the reports of the Committee which had been set up at Shanghai. Moreover,
in communicating its proposal to the Council, the Government of the United Kingdom, whose
action had been supported by other Governments, desired to associate the Council's authority
with the step taken by those various countries with a view to a pacific settlement of the dispute.
He noted that this object had been attained.

DEVELOPMENT OF THE SITUATION AT SHANGHAI AND IN MANCHURIA.

On February 7th, the representative of the Chinese Government called for an immediate
meeting of the Council to consider the first report from the Shanghai Committee. He added that,
during the last ten days, thousands of men, women and children had been killed and wounded at
Shanghai by bombardment by Japanese aeroplanes and gun-fire.²

On the same day, the Japanese representative forwarded a statement published in Tokio
concerning the despatch of troops to Shanghai,³ where "the Japanese marines, opposed to forces
outnumbering them by more than ten to one, were wearied to exhaustion, while the predicament
of Japanese residents, facing as they do imminent danger, was beyond description ".

The Japanese Government concluded its statement by reasserting that it cherished no
political ambitions in the region of Shanghai, nor any thought of encroaching there upon the rights
and interests of any other Powers.

On February 9th, the Council again considered the situation.

The representative of China, after referring to the statement made by the British representative
a week previously, asserted that Japanese troops were being drafted in steadily increasing numbers
into the Shanghai area, and that their operations had also been extended in Manchuria, where
Harbin had been occupied. According to his information, 75,000 Japanese soldiers were in
Manchuria and over 25,000 round about Shanghai. In addition, 27 warships and two divisions of
reinforcements had just left Japan. The present state of affairs was, in his opinion, an intolerable
one, not only for China, but for the League and the Powers whose proposals, accepted by China,
had been "rejected by Japan in their very essence ".

The Japanese representative, after asserting that the Chinese representative had, in his
statement, been more than once guilty of exaggeration — in particular, when he spoke of the number
of troops in Manchuria — referred, as regards the events in Shanghai, to the Committee's first
report.

He then said that negotiations were proceeding on the spot with a view to putting an end to
hostilities and the creation of a neutral zone.

Both the local Japanese authorities at Shanghai and the new commander of the Third
Squadron, Admiral Nomura, had received instructions to that effect.

Sir John Simon reminded the Council that, in co-operation with other Powers, his Government
had placed at the service of the Council all the influence it possessed on the spot, in order to assist
as far as possible in putting an end to hostilities.

The President of the Council noted that the procedure prescribed by Article 15 had operated
rapidly. A Committee had been formed immediately at Shanghai and had sent a first report to
the Council. Moreover, the Council had been informed that the negotiations on the spot for the
cessation of hostilities were not closed. For the moment, therefore, any more detailed discussion
by the Council would seem to be inexpedient.

III. CHINA ASKS THE COUNCIL TO REFER THE DISPUTE TO THE ASSEMBLY.

On February 12th, the Chinese representative to the Council addressed to the Secretary-
General the following communication:

"With regard to the Sino-Japanese dispute, which has been laid before the Council under
Articles 10, 11 and 15 of the Covenant of the League of Nations, I have the honour to observe
that, according to Article 15, paragraph 9, of the said Covenant, it is within the competence
of the Council to refer the case to the Assembly. At the same time, it is also provided that the
dispute shall be so referred, provided that such request be made within fourteen days after
the submission of the dispute to the Council.

¹ In reply to these explanations by the Japanese representative, the Chinese Government communicated other
information concerning the bombardment of Nanking (document C.163.1932).
² Document C.186.1932.
In view of the time-limit imposed, the Chinese Government is constrained hereby to request that the said dispute be referred to the Assembly. If, however, it should be the pleasure and intention of the Council to refer the said dispute at its own initiative to the Assembly or in virtue of the general powers vested in it to summon the Assembly for consideration of the dispute, the Chinese Government will then be prepared to withdraw the request on its part.¹

On February 16th, the members of the Council, other than the parties, after a further exchange of views on the situation — particularly the situation at Shanghai — concluded that it was necessary to address an urgent appeal to the Japanese Government. To this appeal, published in document C.237.1932, the Japanese Government replied on February 23rd by a note and a declaration published in document C.266.1932.

JAPANESE ULTIMATUM OF FEBRUARY 18TH AND URGENT CONVOCATION OF THE COUNCIL.

On February 18th, the representative of China informed the Council that the negotiations at Shanghai between the Chinese and Japanese Officers Commanding had broken down. The Japanese had demanded in an ultimatum the entire withdrawal of the Chinese forces to a distance of 20 kilometres, north, east and west from the International Settlement by 5 o’clock p.m. on February 20th, failing which, the Japanese Commander would take the necessary action. Consequently, the Chinese representative requested that the Council should meet on the morrow.²

On February 19th, the Council met.

The representative of China stated that more than 40,000 Japanese soldiers and 40 war vessels were at present in the Shanghai area. He noted that, according to the second report of the Committee, there had existed since February 3rd a state of open war, the offensive being conducted entirely by the Japanese. In spite of the appeal addressed to Japan on February 16th by the members of the Council other than the parties, the negotiations begun between the Chinese and Japanese had failed, and the Japanese had presented an ultimatum, the time-limit of which was about to expire. A great battle was therefore imminent, simply because the Japanese demanded that the Chinese troops, who were on their own national territory, should withdraw, while the Japanese soldiers were to remain in their positions. The Chinese representative therefore requested that the Council should, in virtue of the powers with which it was invested by the Covenant, adopt conservatory measures to prevent the battle.

The Japanese representative replied that his country had repeatedly explained that, if Japan had resorted to force, it was solely to defend Japanese interests and the lives of Japanese nationals. In spite of all the efforts made by Japan to stop hostilities a critical moment had arrived. Conservatory measures, if they could have been found, ought to have been proposed long ago.

Explanations given by the Japanese Representative regarding the Dispute.

As, however, the Council was, at the request of China, about to adopt a resolution transferring the question to the Assembly, the Japanese representative wished to avail himself of this last opportunity to give the Council once more as full an explanation as possible, so that, when the matter came before the Assembly, the latter may be in possession of all the facts of the dispute.

The origin of the difficulties between China and Japan was to be found, he said, in the fact that for the last ten years China had been living in a state of civil war, disorder and anarchy. As the Preamble to the Covenant specifies explicitly, the Covenant applies to organised peoples, and regulates the relations between such peoples. If Japan had experienced these difficulties with a country possessing a properly organised and efficient administration, she would have accepted any peaceful settlement and would have been able to observe literally the provisions of the Covenant. Countries which had interests in China had often been compelled to employ measures which would not have been permitted in a really organised country. If Japan were to do that.

After mentioning the importance of Japanese interests in Shanghai, M. Sato declared that his country could not ensure the protection of its interests to Chinese authorities, or to anyone. Had the League or the Council been able to devise effective measures to safeguard Japanese interests and the interests of other Powers, Japan would not have been obliged to resort to measures similar to those which other Powers had adopted a few years previously.

Coming to the situation in Manchuria, the Japanese representative said that a number of leading men had on February 17th, at Mukden, formed an Executive Committee of the four North-Eastern Provinces, and had then proclaimed the independence of these Provinces and the breaking of relations with the Central Government of China. He added that there need be no surprise at the use of the word “independence”, which, for the Chinese, had a meaning quite different from that attached to it by Europeans or Americans. Independence in China was equivalent to

² Document C.246.1932.
autonomy. Japan, who had suffered so much from the arbitrary methods of the Mukden authorities, had felt great sympathy for a powerful movement whose motto was “Manchuria for the Manchus”. When China had a properly organised and co-ordinated Central Government, Manchuria would perhaps enter into negotiations with that Government with a view to settling her status.

Japan had often been charged with failing to conform to the resolutions adopted by the Council in September and December 1931, but those resolutions provided for the withdrawal of the Japanese forces within the railway zone as soon as the lives and property of Japanese nationals in Manchuria had been safeguarded. The abnormal situation had, however, continued, and the Japanese had so far been unable to withdraw their troops. The anti-Japanese movement had developed in China. Japan had lost all her trade with China and her place had been taken by others.

Japan to-day was in an unfavourable situation, particularly with regard to emigration. There was now almost no country to which Japan could send her emigrants. In America, all countries save one or two were closed to the Japanese. The same applied to Oceania and South Africa. Japan had been compelled to accept this situation. When she became a Member of the League of Nations, she had asked for equitable treatment for her people and trade, but had immediately encountered insuperable barriers. Japan had to accept the status quo, and was subjected to treatment which was derogatory to her dignity and against which she constantly protested. Driven now from Central and Southern China, where she had lost her entire trade, she was bound to seek a solution and look near Japan—in Manchuria.

She was bound to seek a solution and look near Japan—in Manchuria. While having no territorial ambitions, Japan desired to preserve in Manchuria a field of action for the Japanese, while respecting the principle of the “open door”. Foreign capital would be welcome, since Japanese capital alone would not suffice to open up so vast a territory.

With regard to Shanghai, the Japanese had only one desire—to protect themselves. As soon as that had been achieved, they would withdraw and leave it to neutral forces to guard the neutral zones which would ultimately be set up.

Reply by the Chinese Representative.

M. Yen, after pointing out that only four or five hours remained in which to prevent the battle, admitted that there was a certain amount of disorder in China. He reminded the Council, however, that China was as large as the whole of Europe, and had a population of 400 million people. Moreover, China, formerly an absolute monarchy, had suddenly been transformed into a republic. The process of adjustment could scarcely have been carried out without some amount of unrest. Reference had been made to “a well-organised State”; but in Japan the army and navy were out of control of the Government; Japanese diplomats had given the Council promises which were immediately broken; Chinchow had been occupied despite the promises given to two or three Powers not to do so; Chinese had been massacred in Japan and in Korea. Further, since Japan accused China of not having a well-organised Government, why did she insist on negotiating directly with that Government?

Moreover, a large part of the responsibility for the disorders in China must be attributed to Japan, who had often helped one party against another. Japan did not want to see China united and strong, but to-day, chiefly by reason of the Japanese aggression, China was more united than she had ever been.

After disputing the statement that other Powers had committed against China acts of aggression similar to those committed by Japan, the representative of China declared that Japan was fighting against a country reduced to distress by terrible floods, without a declaration of war, taking all the advantages of war and refusing to shoulder its responsibilities. If, moreover, Japan required an outlet for her excess population, the fact remained that in spite of all Government encouragement and the supply of funds, there were to-day in Manchuria only two hundred thousand Japanese, whereas a million Chinese immigrants settled there every year. To-day, Manchuria was purely Chinese and the majority of the Manchus, who constituted one of the five races of China, were scattered all over the Republic.

The representative of China was gratified that Japan should repeatedly have given an assurance that she had no territorial ambitions in Manchuria, but pointed out that the same thing had been said some years ago about Korea and yet to-day Korea was an integral part of the Japanese Empire.

The representative of China concluded his statement by requesting the Council again to take measures of a conservatory nature to put a stop to the bloodshed which was imminent at Shanghai.

After the representative of Japan had stated in reply that his country, far from fomenting unrest in China, only desired order and calm to prevail in that country, the President addressed the Council.

Apology for the Cessation of Hostilities.

Now that the Council, the President said, by the convening of the Assembly, would no longer have the duty or the possibility of deciding on the substance of the dispute, he would ask the representative of Japan to believe that the Council had overlooked none of the considerations which he had placed before it. The recommendations which the Council might have made with regard to the substance of the dispute would have shown—as will most certainly those made by the Assembly—the greatest impartiality and also the fullest understanding of any very special conditions in the relations of the two countries concerned in the dispute. The League, within the limits of the Covenant, must adapt its decisions to meet those diverse conditions. But an
ultimatum would perhaps expire in a few hours. Since the representative of Japan had given an assurance once again that his country intended to respect Article 10 of the Covenant, there appeared to be an appalling inconsistency between Japan's freedom from territorial interests and the fact that a battle was about to be joined on territory which Japan proposed, whatever the outcome, to evacuate as soon as she had achieved her only object — namely, the safeguarding of the security of her nationals. In those circumstances, would it not be possible to agree at once on the creation of a neutral zone? The President of the Council appealed to the representative of Japan urgently to prevent the ultimatum expiring within a few hours.

Turning to the Chinese representative, the President reminded him that conservative measures could only be adopted with the agreement of the Parties. At the present time, if an agreement was to be brought about, it would only be on the spot. The Council had not resigned to another duty of making these démarches, but, since its meeting of February 2nd, when the British representative had given information as to the negotiations which had been undertaken, it had placed its hope in those negotiations. The President urged once more that the ultimatum should be extended long enough to allow the negotiations to be reopened.

After the other members of the Council had associated themselves with the President's words, the Japanese representative stated that he had been much moved by the sincere and urgent appeal which had been addressed to him, and he gave an assurance that his whole country would rejoice if peace could be maintained. He said he would forward his colleagues' appeal to his Government. He was nevertheless obliged to express regret that the Council did not think it possible to make an urgent appeal to the other Party to the dispute. For several weeks past the situation of the Japanese at Shanghai had been distressing and they had been constantly threatened. To abandon the position assigned to them would have been equivalent to the complete abandonment of a situation which had been acquired with the expenditure of so much energy and effort. Should the Council recommend Japan to withdraw, the representative of that country would be unable to forward this request to his Government. At this critical moment there was one thing which still appeared possible. The cessation of firing was the first desideratum, but that depended on both Parties. The Council would therefore be taking useful action if it addressed as urgent an appeal to the Chinese representative.

The President replied that, if he had ventured to make a more pressing appeal to the Japanese representative, it was because all prospect of mediation and negotiation depended on the ultimatum of the Japanese Government. It was, however, unnecessary to state that he was making an equally pressing appeal to the Chinese representative asking him to give an assurance that, if the ultimatum were prolonged, the armistice would, as a first condition, be scrupulously respected by both sides and that subsequently the Chinese Government, like the Japanese Government, would give its most careful consideration to any proposals that might be advanced by the representatives of the Powers at Shanghai.

IV. THE COUNCIL REFERS THE DISPUTE TO THE ASSEMBLY.

The Council then adopted the following resolution referring the dispute to the Assembly:

"The Council,

"(1) Considering the request submitted by the representative of China, under the provisions of paragraph 9 of Article 15 of the Covenant, to the effect that the Sino-Japanese dispute should be referred to the Assembly:

"Decides that the said dispute is referred to the Assembly in accordance with Article 15, paragraph 9, of the Covenant.

"(2) Considering that delegations from almost every Member of the League are now present in Geneva in order to take part in the Conference for the Limitation and Reduction of Armaments, thereby enabling the Assembly to meet at short notice;

"Decides that a meeting of the Assembly shall be held on March 3rd.

"(3) Notes that the measures which have already been instituted in order to obtain information necessary for the consideration of the dispute will be continued.

"(4) Requests the Parties to the dispute to use all diligence in communicating to the Secretary-General, for the use of the Assembly, the statements of their case with all the relevant facts and papers as provided for in Article 15, paragraph 2.

"(5) The duty of the Council to continue its work for the maintenance of peace in accordance with the Covenant remains unaffected by the present decision."

V. PROPOSALS WITH A VIEW TO THE CESSATION OF HOSTILITIES AND THE RE-ESTABLISHMENT OF PEACE IN THE SHANGHAI REGION.

Hostilities continued during the following days in the Shanghai region. On February 29th, the Council met again.

The British representative informed his colleagues that his Government had received further news from its representatives at Shanghai. On the previous day the commanders or representatives
of the Japanese and Chinese forces had met on board the British flagship, in the presence of Admiral Kelly, with a view to arranging for a cessation of hostilities.

According to Admiral Kelly's report, the principle of mutual and simultaneous withdrawal on either side had been agreed to and there had been detailed discussions as to how the evacuated area could best be controlled with the assistance of neutrals.

The proposed arrangements had been referred to Tokio and Nanking for consideration.

The President then made the following statement:

"1. The imminence of hostilities on the largest scale in the Shanghai region between Chinese and Japanese forces, with the inevitable consequence of heavy loss of life and further embitterment of feeling, makes it at this critical moment the duty of all of us to lose no opportunity of seeking means by which this deplorable armed conflict between two Members of the League may be suspended and a way of peace may be found and followed.

"The news that we have received from the British representative that conversations actually took place yesterday at Shanghai with a view to making arrangements for a cessation of hostilities and that the proposed arrangements have been referred to the respective Governments is welcomed by us all, and the Council of the League is ready to make its contribution towards the consolidation of peaceful conditions in the way and at the time which is most useful.

"2. I have therefore called together my colleagues on the Council for the purpose of laying before them a proposal which might serve to this end. For its effective execution, this proposal will require, not only the acceptance of the Governments of China and Japan, but the co-operation on the spot of the other principal Powers who have special interests in the Shanghai Settlements and whose representatives are therefore readily available to make the local contribution of their friendly aid which is no less necessary than the positive and sincere agreement of the Chinese and Japanese authorities to the plan proposed.

"3. This plan is as follows:

"(1) A conference to be immediately set up in Shanghai composed of representatives of the Governments of China and Japan together with representatives of the other Powers above referred to for the purpose of bringing about a final conclusion of fighting and the restoration of peaceful conditions in the Shanghai area.

"(2) The Conference would be undertaken on the basis (a) that Japan has no political or territorial designs and no intention of establishing a Japanese settlement in Shanghai or of otherwise advancing the exclusive interests of the Japanese, and (b) that China enters the conference on the basis that the safety and integrity of the International and French Settlements must be preserved under arrangements which will secure these areas and their residents from danger.

"(3) The meeting of this conference is, of course, subject to the making of local arrangements for a cessation of hostilities. The Council trusts that this will very speedily be brought about. It is proposed that the military, naval and civilian authorities of the other principal Powers represented in Shanghai will render all possible assistance in consolidating the arrangements.

"4. To this proposal, which is aimed at the immediate re-establishment of peace in the Shanghai area, without prejudice to, or qualification of, any position previously taken up by the League of Nations or any Power in relation to Sino-Japanese affairs, the President desires, in the name of himself and of his colleagues, to invite the adherence and co-operation both of China and Japan and of the other Powers referred to, whose local position enables them to make a special contribution to the common purpose of stopping armed conflict and restoring peace."

The Italian representative immediately gave an assurance that the proposal made by the President met with his entire approval. As the representative of one of the Powers having special interests in the Shanghai Settlement, he added that the collaboration of Italy in the plan outlined was already definitely assured.

The British representative said he would instruct his Government's representatives in Shanghai to co-operate with the other Powers and that the British Government would give this co-operation in its character as a Member of the League of Nations, resolved to support its moral authority and sustain its influence in the work of maintaining and restoring peace.

He added that there was another Government whose citizens had great interests in the International Settlement, who were devoted to the cause of peace and who desired to promote a just conclusion of the Sino-Japanese conflict; he referred to the Government of the United States of America. The British representative was able to announce that he had been in close consultation with the United States Government, which had authorised him to communicate the assurance of the United States that it was prepared to associate itself with the step taken by the Council, and to instruct its representatives in the Shanghai area to co-operate with the Powers, Members of the League of Nations, in carrying out the plan proposed by the President of the Council.
The President stated that, as the representative of France, he was authorised to give the same adhesion and a promise of the same support.

The Japanese representative, after stating that he was not yet authorised to inform the Council as to details regarding the negotiations which had taken place in Shanghai, accepted the proposal made by the President, subject to the approval of his Government, to whom he would immediately transmit it.

He made the following statement:

"(1) In the Shanghai question, the sole aim of the Japanese Government is to remove from the International Concession, and also from its own nationals, an imminent danger and to restore peaceful conditions.

"(2) The Japanese Government will be prepared to co-operate with other Powers with a view to settling the situation at Shanghai as soon as calm is re-established under conditions such as will guarantee the security of the Concession and the Japanese nationals. For this purpose, and particularly with a view to ensuring the future security of foreigners in the Shanghai region, the Japanese Government will have no objection to the opening in that city of a round-table conference at which there will be represented foreign Powers who have interests at Shanghai.

"(3) The Japanese Government has no intention of taking advantage of the present situation in order to realise political or territorial ambitions in that region. It has no wish to establish a Japanese concession at Shanghai or to obtain exclusive advantages there for the Japanese. It desires to maintain and strengthen the international character of Shanghai.

"(4) News has been published in the Press according to which the Japanese Government is stated to be contemplating the establishment of neutral zones around some of the chief Chinese cities. This in no wise represents the intentions of the Japanese Government.",

The Chinese representative stated that the Chinese Government and people appreciated very sincerely any effort on the part of the League and of friendly Powers not Members of the League, principally the United States of America, to bring about an immediate cessation of hostilities, and to prepare the way for a just and permanent settlement of the dispute. He then read the following telegram which he had just received from his Government:

"Last night Admiral Kelly of the British Navy invited Dr. Wellington Koo and other Chinese and Japanese authorities to a meeting. Admiral Kelly proposed cessation of hostilities and simultaneous withdrawal of Chinese troops to Chenju (a village to the west of Chapel) and the Japanese to within Settlement limits, then Chinese troops to Nanziang (a town on the Shanghai-Nanking Railway) and the Japanese to embark. The withdrawal of both sides to be supervised by neutrals. Chinese authorities find proposal reasonable and acceptable."

Under these circumstances, the Chinese representative was only too glad to transmit the proposal presented by the President of the Council, and to recommend that it should be accepted.

M. Sato wished to add that, as soon as he had received the necessary authorisation from his Government, he would not fail to communicate to the Council the details of the arrangement which had been reached at Shanghai.

The German representative expressed the sincere hope that the negotiations and the subsequent measures to be taken with the assistance of those Powers which, on account of their position in Shanghai, were able to give special help, would be crowned with immediate success.

The Spanish representative said that success was so imminent that each one should contribute, whether in small or great measure. His contribution would consist in setting aside his special preference to see Powers other than those with immediate interests in Asia taking part in the conference at Shanghai. He expressed the hope that negotiations would reach a successful issue early enough for the Assembly to be confronted with this happy result.

After thanking those of his colleagues who had explicitly acceded to the formal proposal, the President laid particular stress on the words used by the British representative, who had associated so closely — as the text of the proposal itself did — the cessation of hostilities and the proposed conference at Shanghai. The latter would be purposeless save in the silence of arms. Like the Spanish representative, the President hoped that this cessation of hostilities might be realised soon enough to enable the Assembly to open under happier auspices than might have been hoped for.
III. STATEMENT COMMUNICATED BY THE CHINESE DELEGATION
IN CONFORMITY WITH ARTICLE 15, PARAGRAPH 2, OF THE COVENANT.

To the Secretary-General of the League of Nations.


Referring to my letter of February 9th, 1932, I have the honour to submit herewith a more
complete statement of the Republic of China with respect to the Sino-Japanese dispute, of which
the Council has been seized under Articles 10, 11, and 15 of the Covenant of the League of Nations
and which has now been referred to the Assembly by virtue of the Council resolution of February
19th, 1932, the duty of the Council to continue its work for the maintenance of peace in accordance
with the Covenant remaining, however, unaffected by the transference of the said dispute to the
Assembly.

In submitting the enclosed statement, I beg leave to reserve the right to submit hereafter other
statements of papers which my Government may deem necessary and appropriate. As to the
statements and papers heretofore made and submitted by my Government in the proceedings of
the Council in the said controversy, I have the honour to state that my Government considers
them as comprising part of the relevant facts and papers of the case as it did in my note to you
of January 29th, 1932.

(Signed) YEN.

STATEMENT SUBMITTED BY THE REPUBLIC OF CHINA IN
COMPLIANCE WITH PARAGRAPH 2 OF ARTICLE 15 OF THE COVENANT
OF THE LEAGUE OF NATIONS.

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I. INTRODUCTION.

The Sino-Japanese dispute in its entirety has now been submitted to the League of Nations by formal invocation of its powers and authority under Articles 10, 11 and 15 of the Covenant. The Council has already indicated that the procedure under Article 11 is in no way suspended or superseded by the invocation of other Articles. The problem created by the Japanese aggression against China is therefore squarely before the League in all its aspects.

The gravity of the issue thus presented can hardly be exaggerated. A great country with a population of approximately 400,000,000 inhabitants is here virtually staking its national existence on the practical application and enforcement of the League's Covenant. The supreme test of the effectiveness of the League in a capital emergency is at hand.

Naturally, it is for the League itself in the first instance to construe and apply its own fundamental law. As M. Tardieu, representing France, frankly stated in his address to the Disarmament Conference on February 8th, "the tendency in the past, when interpreting the Covenant, has been that it has been constantly interpreted along the line of least resistance, and that there has been in this respect a definite lack of boldness". Unfortunately, the line of least resistance, which has been followed thus far in this as in other matters, has been closed by the march of events. Nothing short of a courageous and firm stand now seems possible if the Covenant is henceforth to command respect.

It is perhaps useful at the outset to distinguish between the fundamental task of adjusting Sino-Japanese relations, with particular reference to the North-Eastern Provinces of China, so as to lay the bases of permanent peace in the Far East, on the one hand; and the immediate and urgent business of stabilising the situation, in the sense of the Council's resolutions of September 30th and December 10th, so as to permit the final settlement to be made.

The first of these operations is one of wide envergure and necessarily will require time. Inevitably there must be long and attentive negotiations. There are vast complexities and treaty rights and interests, extending even beyond those of the parties to the dispute, to be considered. On this branch of the subject, two positions maintained by China from the very beginning should be kept in mind: (1) negotiations between China and Japan under pressure of military occupation of any part of the former's territory by the latter cannot, for obvious reasons, be contemplated; (2) any ultimate adjustment of Sino-Japanese relations with a view to permanent peace must not only safeguard all rights of third parties, but also be in strict accord with the principles laid down in the Covenant, the Pact of Paris, and the Nine-Power Treaty. Both of these points will be hereinafter dealt with in detail.

The emergency part of the undertaking—to stop the fighting and loss of life, to liquidate the Japanese occupation, and, in general, to re-establish the status quo ante permitting a consideration of the main problem—is of course the one demanding instant attention. We are dealing, not with something which is done and finished, but with an uncontrolled and continuing military aggression by one nation on the territory of another.

The Council has long recognised that the situation is intolerable and brooks of no delay. To stress its extreme urgency from every point of view is quite unnecessary. It is probably no exaggeration to say that there has been no comparable international crisis since 1914. On the threshold of the enquiry lies the question of the proper significance and effect to be attributed to the Japanese aggression as an indisputable fact. That Japan launched the attack, that her armed forces have relentlessly advanced for nearly five months, and that they are now in occupation of a vast extent of Chinese territory in two widely separated parts of the country cannot be controverted. A formidable invasion with all the terrible concomitants of war has taken place and is going on. The scale of the operation and the period of time over which it has persisted have removed all possibility of characterising it as casual, or incidental.

Article 10, the very corner-stone of the Covenant, is being shattered. That Article reads:

"The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled."

Japan is a Member of the League of Nations solely by virtue of the fact that she has acceded "without reservation" to this as well as to the other Articles (see Article 1).

China points to the forcible occupation of 200,000 square miles of her territory, to the attack on Shanghai, to the bombing of Nanking, her capital, and to numerous other specific acts of armed violence as constituting external aggression (and not merely the threat or danger of it) against her territorial integrity and political independence in plain violation of Article 10. The proposition appears so axiomatic as not to fall within the domain of argument.

But Japan asserts that these acts complained of do not constitute such aggression: because, in her opinion, Japan's nationals in China were not receiving fair treatment and in some cases
their lives and property were in danger; because Japan conceives it her duty to establish and maintain law and order in Manchuria, at Shanghai and elsewhere; because the Chinese people are refusing to buy goods of Japanese origin; because the Chinese have not welcomed the invading army and it has had to advance in self-defence in order to protect the positions it has occupied; and finally because, after all, Japan has no design to keep the territory which she has taken, and intends to give it up when, in her judgment, the safety of her nationals permits, when the boycott is abandoned, and when China, by direct negotiation (under pressure of the occupation), settles all outstanding disputes with Japan to the latter's satisfaction.

While all of these pretexts and excuses are discussed in the following pages, there is a certain risk of confusion, if one does not keep in mind the primary issue of whether any pretext, however persuasive, can be entertained as a justification for resort to armed force, instead of peaceful means, for the settlement of international differences. The alleged grievances referred to by Japan are all obviously susceptible of arbitration and judicial settlement—which China has proposed.

The basic feature of Japan's plea which calls for notice at this point is the extraordinary contention that the sending of an army to take forcible possession of the territory of a foreign State is divested of all aggressive import if the invading Power issues a simple disclaimer of permanent territorial ambitions and of any intention to stay longer than seems to itself necessary. This position cannot be ignored because it strikes at the root of the whole matter. The League must either reject the Japanese contention or write its Covenant down to a pious declaration that aggression depends upon the self-asserted state of mind of the aggressor, thus converting the Covenant from a guarantee of peace into an invitation to war.

II. HISTORICAL BACKGROUND.

The region popularly designated as Manchuria, but known to the Chinese as "The Three Eastern Provinces", is a large fertile area with enormous possibilities of economic development. An idea of its size may be gained by recalling the fact that it is somewhat greater than France and Germany combined as they appear on the map of Europe. From time immemorial, Manchuria has belonged to the Chinese national domain; historically, ethnically and politically, it is an integral part of China. From the name usually given to these Chinese Provinces collectively, it has been sometimes mistakenly assumed that they are the land of the Manchus, who are said to be in no way allied to the rest of the Chinese by blood. The truth is that China is made up of five races, of which the Manchu is one. Moreover, the population of the region to-day—some thirty millions—is, ethnically speaking, strictly and overwhelmingly Chinese.

That Manchuria is territorially and administratively an integral part of China has repeatedly been recognised by the international circle in all treaties bearing upon the subject, notably those entered into by the Powers at the Washington Conference in 1921-22. The suggestion was never made at that Conference, even by the Japanese, that Manchuria did not fall within the purview of pledges then made guaranteeing China's sovereignty, independence and territorial and administrative integrity. Among the latest definite and official reiterations of this position is the reply of Sir Austen Chamberlain, then British Foreign Secretary, to a question in the House of Commons on July 13th, 1928, when he declared that Great Britain considered Manchuria as part of China. Mr. Kellogg, the American Secretary of State, in a statement to the Press on May 21st, 1928, said that, so far as the United States of America was concerned, Manchuria was essentially Chinese soil.

Furthermore, on January 1st, 1926, Baron Shidehara, then Foreign Minister of Japan, addressed the Japanese Diet, in opposition to the "Positive Policy" in Manchuria at that time advocated by the followers of Baron Tanaka, in the following terms:

"No doubt the complete tranquillity of the whole region of the Three Eastern Provinces, undisturbed by any scourge of war, is very much to be desired in the interest of the native population, as well as of the Japanese residents. It is, however, a responsibility that properly rests upon China. The assumption of that responsibility by Japan without just cause would be manifestly inconsistent with the fundamental conception of the Washington Treaties, and with the repeated declarations of the Japanese Government. By taking such course we would forfeit our national honour and pride once for all. In no case, and by no means, can we be party to so improvident an action."

3 Peking Leader, January 24th, 1928.
The advent of Japan in the arena of Asiatic continental affairs is comparatively recent. Her attention was first directed to the little Kingdom of Korea, over which China had exercised an age-long suzerainty. The Sino-Japanese war of 1894-95 was the result. By the Treaty of Peace signed at Shimonoseki on April 17th, 1895, China was compelled "to recognise definitely the full and complete independence and autonomy of Korea "; and was also forced to cede to Japan in full perpetuity and full sovereignty portions of the Liaotung Peninsula, including Port Arthur and Dalny, and to pay an indemnity of 300,000,000 Kuping Taels.

Russia at once took advantage of the opportunity to gain a foothold in Manchuria by extorting from China the concessions for the Chinese Eastern Railway with a branch down to the sea at Dalny and Port Arthur; and, later, acquired for herself the lease of the Liaotung Peninsula.

Russia's subsequent demands that the lease be extended to 99 years and that China should be precluded from building railways in the area in question, even with her own capital, contravened Japan's turn to advance her ambitious projects on the mainland of Asia came again in 1905, when she declared war upon Russia. The war was fought almost entirely on Chinese territory, and it will be remembered that peace was largely brought about through the good offices of Theodore Roosevelt, then President of the United States of America.

By the Treaty of Portsmouth, signed September 5th, 1905, Japan and Russia mutually engaged: to evacuate completely and simultaneously Manchuria, except the territory affected by the lease of the Liaotung Peninsula; to restore entirely and completely to the exclusive administration of China all portions of Manchuria then occupied by their troops respectively, with the exception of said Peninsula; and " not to obstruct any general measures common to all countries which China might take for the development of the commerce and industry of Manchuria " . Both parties further declared, in Article 3, that they had not " in Manchuria any territorial advantages or preferences or exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity ".

The Treaty then provided for the transfer from Russia to Japan (with the consent of China, which the parties undertook mutually to secure) of the lease of Port Arthur and Dalny, as well as the southern branch of the Chinese Eastern Railway from Changchun to Port Arthur, now known as the South Manchuria Railway.

China's consent to these transfers from Russia to Japan was given in the Sino-Japanese Treaty signed at Peking (now Peiping) on December 22nd, 1905. That was the sole raison d'être of the Peking Treaty, which contained but two substantive Articles, the first of which recorded the consent to the transfer of the leased territory and to the assignment of the railway concession involved.

Article 2 embodied a specific engagement by Japan that, as regards the leased territory and the concessions to be taken over, she would, " so far as circumstances permit, conform to the original agreements concluded between China and Russia "; and, that, in case any question arose in the future on these subjects, it would be decided in consultation with the Chinese Government.

Simultaneously with the Peking Treaty, a so-called Additional Agreement was signed by Japan and China with the declared purpose of regulating for their guidance certain questions in which they were both interested in Manchuria. By Article 1, China agreed, as soon as possible after the evacuation by Japan and Russia of their forces, that she would herself open up "as places of international residence and trade" sixteen designated towns. In Article 2, Japan agreed, as soon as tranquillity had been re-established in Manchuria and China was able to afford full protection to the lives and property of foreigners, to withdraw her railway guards simultaneously with Russia. In passing, it may be noted here that, since 1917, Russia has withdrawn her railway guards from the Chinese Eastern Railway areas, while Japan still retains hers, thereby increasing the friction between the Chinese and the railway authorities, especially when the said railway guards outstepped their bounds and attempted to exercise jurisdiction in areas under Chinese control on the pretext of arresting bandits and apprehending criminals.

Article 6 gave Japan the right to maintain and work the military railway line constructed between Antung and Mukden and to improve the same "so as to make it fit for the conveyance of commercial and industrial goods of all nations". This right was conceded for a period of fifteen years from the date of the completion of the improvements and, at the expiration of that term, the railway was to be sold to China at a price to be fixed by foreign expert appraisal.

It will be observed that none of these Treaties and Agreements conferred upon Japan any special or exclusive right to finance or construct railways in South Manchuria. Such a grant, it goes without saying, would have been inconsistent with the principle of the Open Door and Equal Opportunity, which Article 3 of the basic Treaty of Portsmouth reaffirmed. It is equally apparent that Japan's subsequent demands that the lease be extended to 90 years and that China should be precluded from building railways in the area in question, even with her own capital, contravened these Treaties of 1905. Either the principle laid down in the Portsmouth Treaty had to be adhered to or China must be deemed to have been released from her undertakings in the Treaty of Peking which was based upon it.

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1 See Appendix VI.
2 See Appendix VII.
Nevertheless, from the date of the signature of the Peking Treaty and the Additional Agreement to the present day, Japan has contended that attached to these documents were secret protocols wherein China agreed not to construct, prior to her recovery of the said railway, any main line in the neighbourhood of and parallel to the South Manchuria Railway, or any branch line which might be prejudicial to the interest of that railway. No reliable evidence of the existence of such alleged secret protocols has ever been produced. No official copy has ever been published, nor was anything purporting to embody their terms filed with the United States Government in conformity with the eleventh resolution of the Washington Conference dealing with Far-Eastern affairs.

What actually took place in 1905 was that an agreement that China should not parallel the Japanese railway was sought by the Japanese and the matter was discussed. What was mentioned in the Minutes was that China would not construct parallel lines in the vicinity of the South Manchuria Railway. The first time the subject came up between China and Japan was in 1907 when the Chinese Ministry of Railways decided to extend the Peking-Mukden Railway from Hsinmin to Fukumen and from thence to Taonan and Heilungkiang. The Japanese Minister in Peking protested and the Chinese Foreign Office replied as follows:

"You must know that, when the Minute was discussed, the Chinese plenipotentiaries pointed out that 'parallel' was very vague and therefore the number of miles must be stated. The Japanese objected by saying that, if this was done, the other Powers might think that Japan was trying to obstruct Chinese railway development. The Chinese wanted European and American precedents to be followed in such a matter, and the Japanese reply was that precedents were not identical. Finally, the Japanese declared that Japan would never obstruct measures on the part of China to develop Manchuria. As we regard that he was speaking in all sincerity and was inspired by feelings of friendship, what he said should be obeyed by both parties."

Nebulous as is this undertaking concerning parallel lines, Japan has used it frequently to block the railway development of Manchuria by China with her own as well as with foreign capital. The two best-known instances are: the case of the projected Hsinmin-Fakumen Railway in 1907-8, when the construction under arrangement with a British firm was frustrated; and the case of the Chinchow-Aigun Railway in 1909-10, when the execution of a contract concluded with an Anglo-American company was similarly blocked. Japan in each instance invoked her alleged treaty rights with the practical result of defeating this development—this notwithstanding the provisions of the Portsmouth Treaty above quoted.

In view of later developments, and of the fact that the whole structure of Sino-Japanese treaty relations affecting Manchuria is founded, according to the Chinese contention, upon the 1905 Treaties and Agreements, it is important to note that the lease of the Liaotung Peninsula to Russia was for a period of twenty-five years, dating from 1898, and therefore expired in 1923; and that, by the terms of the Chinese Eastern Railway contract (which is applicable to the present South Manchuria Railway), it is provided that the whole enterprise should revert to China free of charge after a period of eighty years from the date on which the line was completed and opened to traffic. The line having been so opened in 1903, it will revert to China in 1983. There was also in the Railway Contract a clause permitting China to purchase the line on certain terms at the expiration of thirty-six years from the date of completion—that is to say, in 1939.

Japan, however, contends that the 1905 arrangements have been supplemented and modified by an entirely new series of arrangements concluded under duress in 1915. This is the celebrated affair of the Twenty-one Demands which, during the World War, were presented by Japan, not through ordinary diplomatic channels, but to the President of the Chinese Republic in a manner calculated, if possible, to secure extreme secrecy, and accompanied by an ultimatum expressing clear intention to use armed force if the demands were not complied with. The President, Yuan Shi-Kai, was in the circumstances forced to capitulate, virtually at the point of the pistol.

The so-called Agreements extorted in this fashion involved, among other things; extension of the terms of the lease of Port Arthur and Dalny and the terms of the South Manchuria Railway and the Antung-Mukden Railway to 90 years—that is to say, until the year 2002; the cancellation of China's right to redeem the South Manchuria Railway by purchase in 1939; the extension of the term of the Antung-Mukden Railway until the year 2007; the granting of a preference to Japanese capitalists in all negotiations for loans to provide funds for building railways in South Manchuria and Eastern Inner Mongolia; the undertaking by China to negotiate with Japanese capitalists first when making future loans on the security of taxes in the said regions; the undertaking by Japan to employ first Japanese advisers or instructors on political, financial, military or police matters, when such advisers or instructors are required in South Manchuria; and the undertaking that the Chinese authorities in South Manchuria and Eastern Inner Mongolia shall come to an understanding with the Japanese Consul before enforcing police laws and ordinances and taxation against Japanese subjects.

The 1915 dictated "Agreements" cannot be read as a whole with an eye to their cumulative effect without arriving at the conclusion that they were intended to lead to, if not actually establish,
a virtual protectorate over that part of China which they concerned. The Chinese Government
and people have characterised them as invalid and of no effect. The Government immediately
after their signature issued a formal public statement of protest, 1 disclaiming responsibility for
any consequent violation of treaty rights of other Powers and disassociating itself from any such
attempted revision of the various international conventions and agreements concluded relating to
the maintenance of China's territorial independence and integrity, the preservation of the status
quo and the principle of equal opportunity with the commerce and industry of all nations in China.
The question was raised by China at the Paris Conference in 1919, but no action was taken. At the
Washington Conference of 1921-22, China spread upon the records the reservation of the right on
all future appropriate occasions to seek a solution of this problem. 2 Mr. Hughes made a statement
summing up the American position. 3 Finally, it should be pointed out that the 1915 so-called
"Agreements" have never been ratified by the Chinese Parliament as the Constitution of the
Republic requires. On the contrary, the Parliament, in January 1923, mindful of the approaching
expiration of the original lease of Port Arthur and Dalny, adopted a resolution formally declaring
the Treaties of 1915 null and void and calling upon the Government to act accordingly. By a
note dated March 10th, 1923, the Chinese Government brought the matter to the attention of
the Japanese Government, stating that the Agreements in question should forthwith be abrogated,
saving, of course, those regarding which a satisfactory settlement had already been reached. The
Japanese Government replied that it was apprised of the position which had been taken by the
Chinese Government and reasserted its own position that the Agreements continued in force.
Concededly, the treaty situation affecting Manchuria, and indeed the relations between China
and Japan as a whole, are complex and difficult. At the same time, it is clear that the issues are
all such as to call for arbitration or judicial settlement and cannot on any recognised theory
be held to justify to resort to armed force to resolve them. The Covenant of the League is itself
emphatic on this subject. Paragraph 2 of Article 13 reads as follows:

"Disputes as to the interpretation of a treaty, as to any question of international law,
as to the existence of any fact which, if established, would constitute a breach of any inter-
national obligation, or as to the extent and nature of the reparation to be made for any such
breach, are declared to be among those which are generally suitable for submission to arbi-
tration or judicial settlement."

With further reference to the 1915 arrangement, it may be recalled that the United States
Government, on May 13th, 1915, sent the following identical note to both Japan and China:

"In view of the circumstances of the negotiations which have taken place and which
are now pending between the Government of China and the Government of Japan and of
the agreements which have been reached as a result thereof, the Government of the United
States has the honour to notify the Government of the Chinese Republic that it cannot
recognise any agreement or undertaking which has been entered into or which may be entered
into between the Governments of China and Japan impairing the treaty rights of the United
States and its citizens in China, the political or territorial integrity of the Republic of China,
or the international policy relative to China commonly known as the 'Open-Door Policy'."

III. EVENTS SINCE SEPTEMBER 18TH, 1931.

The Japanese Attack.

At 10 o'clock on the night of September 18th, 1931, regular troops of Japanese soldiers,
without warning of any kind, suddenly opened rifle and artillery fire upon Chinese troops in the
immediate vicinity of the city of Mukden, bombarded and looted the arsenal and barracks of the
Chinese soldiers, set fire to the ammunition depot, attacked and disarmed the Chinese troops in
Changchun, Kwantungse and other places. Within forty-eight hours they were in occupation
of these cities, as well as Antung and other places and, by holding the chief strategic points along
the railways, were in effective control of an area as large as the British Isles.

Japanese Premeditation and Violence.

The smoothness and swiftness with which this operation was carried out indicated
premeditation. This, indeed, was confirmed from many sources, both neutral and Chinese.

--- Appendix I.
--- Appendix II and III.
--- Appendix IV.
The Council has been apprised of some of this evidence. Council document C.733.1931, of October 20th, 1931, contains the text of a telegram from Mr. Robert Lewis, an American citizen of high standing, containing the following passage:

“I have proof that on Friday night, September 18th, the Japanese army sent through Antung from Korea into Manchuria seven trains loaded with soldiers. On Saturday night, September 19th, they sent four additional trains loaded with soldiers into Manchuria through the same place. On Sunday, September 20th, they sent eight further trainloads through the same point into Manchuria. These nineteen trains are now part of their occupying force in Manchuria. (Antung is 161 miles from Mukden, on the Korean border.)”

The Chinese delegate, Dr. Sze, on October 13th, read a telegram addressed to him on October 12th by Mr. Sherwood Eddy, whom he described as an American “who has devoted his entire life to the promotion of good-will and a better understanding among the nations of the world”. This telegram reads:

“I was present at capture Mukden. Evidence of many witnesses interviewed at time and on spot points to premeditated carefully prepared offensive plan of Japanese army without provocation of any Chinese attack producing bitter resentment when China suffering with flood disaster and world preoccupied. Japanese troops not withdrawn but all strategic points Southern Manchuria still held by Japanese and Chinchow bombed. I have testified, under oath sent Nanking and Geneva, to evidence of efforts to establish puppet independence governments Manchuria under Japanese military control. I have forwarded sworn statement of interviews with Chinese leaders Manchuria who testify to repeated pressure of Japanese to induce them to head independence Governments. Universal indignation in China taking form economic boycott which Government cannot control. Efforts of Nanking Government still peaceful non-resistance which imperil Government if pacific settlement fails. Situation critical grave developments imminent. All Orient looking to League of Nations and Kellogg Pact signatories for action. Asia believe League and Pact are on trial as well as Japan and China. Notable turning towards Soviet Russia as an ally and Communism is developing threatening widespread anarchy if League and Pact fail in this supreme crisis and menace of war.”

In connection with the question of premeditation, it may be mentioned as a highly significant circumstance that the semi-official *Japan Times* published on the morning of September 18th an elaborate special supplement on Manchuria, which must have taken some time to prepare. The supplement had a sensational heading asking whether war between China and Japan in Manchuria was inevitable and was devoted to discussing Manchuria as a potential second Korea.

A word must also be said as to the acts of violence and cruelty committed by the Japanese forces in their surprise attack. Council document C.604 of September 24th, 1931 (pages 6 and 7), reports the following:

“Japanese troops at Kungchuling Kirin have launched another attack on Chinese soldiers. Massacre of Chinese in Kirin City even more serious than in Mukden. Chinese civil and military officials were ruthlessly killed; about 200 met their death. . . . Many Chinese civilians in Changchun slain. Chouyuping, director of Changchun Municipal Administration, found lying dead on roadside with seven bullet wounds, fifty-one bayonet cuts; fifteen members of his family were also butchered. When first occupied Changchun Japanese troops bombed city twenty times in five hours, ruining large number of houses.”

The practice of savagely bombing from aeroplanes open and undefended towns in peace-time has been introduced by Japan as an innovation in the practice of civilised nations and has been pursued steadily in Manchuria (Changchun, Chinchow and Kowpangtse are cases in point). The deeds perpetrated by Japan’s bombing planes over Chapei, one of the most thickly populated sections of the municipality of Greater Shanghai, the incendiary activities of Japanese marines and the refusal to allow the Settlement fire brigades to combat the conflagration are still fresh in every one’s mind. On that occasion, thousands of innocent civilians—men, women and children alike—lost their lives. These methods have characterised Japanese activities in Manchuria since September 18th, and are still continuing.

The pretext alleged by the Japanese Government—that one rail had been removed from the sleepers—for the outbreak of September 18th is so trivial and inadequate as scarcely to require comment: but it may be repeated here that the Chinese Government flatly denies that there was any tampering with the railways at any point on the South Manchurian Railway, and
that, since the Japanese Government refused the neutral enquiry for which the Chinese Government immediately asked, its version is prima facie suspect. The testimony of Mr. Robert Lewis, quoted above, shows that Japanese troop trains were beginning to move north from the Korean frontier before the occurrence of the alleged incident.

China’s Appeal and the September 30th Resolution.

The Chinese Government, on September 21st, 1931, invoked Article II of the Covenant before the Council (document C.585,1931) and asked that the latter should take immediate steps: (a) to prevent the further development of a situation endangering the peace of nations; (b) to re-establish the status quo ante; and (c) to determine the amounts and character of such reparations as may be found due to the Republic of China.

The Government of China added that it was fully prepared to act in conformity with whatever recommendations it might receive from the Council and to abide by whatever decisions the League of Nations might take in the premises.

The upshot of the first phase of the Council’s deliberations on this subject was the resolution of September 30th, 1931, in which Japan concurred and by which the Japanese Government is bound. This resolution reads:

“The Council:

1. Notes the replies of the Chinese and Japanese Governments to the urgent appeal addressed to them by its President and the steps that have already been taken in response to that appeal;

2. Recognises the importance of the Japanese Government’s statement that it has no territorial designs in Manchuria;

3. Notes the Japanese representative’s statement that his Government will continue as rapidly as possible the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and that it hopes to carry out this intention in full as speedily as may be;

4. Notes the Chinese representative’s statement that his Government will assume responsibility for the safety of the lives and property of Japanese nationals outside that zone as the withdrawal of Japanese troops continues and the Chinese local authorities and police forces are re-established;

5. Being convinced that both Governments are anxious to avoid taking any action which might disturb the peace and good understanding between the two nations, notes that the Chinese and Japanese representatives have given assurances that their respective Governments will take all necessary steps to prevent any extension of the scope of the incident or any aggravation of the situation;

6. Requests both Parties to do all in their power to hasten the restoration of normal relations between them and for that purpose to continue and speedily complete the execution of the above-mentioned undertakings;

7. Requests both Parties to furnish the Council at frequent intervals with full information as to the development of the situation;

8. Decides, in the absence of any unforeseen occurrence which might render an immediate meeting essential, to meet again at Geneva on Wednesday, October 14th, 1931, to consider the situation as it then stands;

9. Authorises its President to cancel the meeting of the Council fixed for October 14th should he decide, after consulting his colleagues, and more particularly the representatives of the two Parties, that, in view of such information as he may have received from the Parties or from other Members of the Council as to the development of the situation, the meeting is no longer necessary.”

On the occasion of the adoption of this resolution, the President of the Council made a statement to the Assembly on September 29th, 1931, in which he informed the latter body, with the knowledge and approval of the Japanese delegate, in the following terms:

“I only wish to allude to several essential points: First, the affirmation by the Japanese Government and by its representative that it never had or will have any intention of occupying Manchuria militarily; secondly, the fact that the Japanese Government has on several occasions insisted before the Council on its intention to withdraw as soon as possible the Japanese forces to within the railway zone gradually as the safety of its nationals and their property is effectively guaranteed; thirdly, the fact that this intention has, according to the declaration made yesterday to the Council by the Japanese representative, been, during the last two days, translated into definite action and that outside the railway zone Japanese troops are only stationed in a few localities.

“The Council has noted these reassuring statements by the Japanese Government. It feels certain that, in this very difficult affair, as in other affairs which have been laid
before it, the good-will of the parties and their loyalty to international engagements constitute
the best guarantee for the peace of the world."

The Bombing of Chinchow and the Japanese Army Proclamation.

That the assurances given by the Japanese Government, as quoted above, were very far
from corresponding to the facts of the situation was brought home in a painful manner to the
Council by the bombing of Chinchow a few days before the October session of the Council was
to begin. Chinchow, it should be remembered, was the temporary capital of the Mukden Govern-
ment, whereof its head was Marshal Chang Hsueh-Liang, and was a long distance from the
areas occupied by the Japanese troops. The bombardment was accompanied by much destruction
and loss of life. The Chinese Government at the time communicated to the Council the text
of the following handbill dropped by Japanese planes over Chinchow:

"Chang Hsueh-Liang, that most rapacious wanton, stinking youth, is still failing to
realise his odiousness and has established a Provisional Mukden Government at Chinchow to
plot intrigues in the territories which are safely under the rule of the troops of the Great
Japanese Empire, when the heart of the Manchurian mass is no longer with him, his ground
is lost and the four provinces of the North East are going to revolt against him. The Imperial
Army, which, in accordance with the principles of justice, is endeavouring to safeguard its
interests and to protect the masses, will never recognise the Provisional Government of Chang
Hsueh-Liang at Chinchow, and therefore it is obliged to take drastic measures to suppress
such a government. The people of Chinchow should submit to the kindness and power of
the army of the Great Japanese Empire and should oppose and prevent the establishment of
Chang Hsueh-Liang's government, otherwise they will be considered as decidedly opposing the
army of the Great Japanese Empire, in which case the army will ruthlessly destroy Chinchow.
The people of Chinchow are hereby enjoined carefully to consider their situation and to take
such decisions as they will deem wise." (Document C.694)

The terms of this proclamation cast a lurid light upon the policy being pursued by the Japanese
Army in Manchuria as contrasted with the assurances given by the Japanese Government in Geneva.
At the subsequent Council meeting, Lord Cecil declared: "The British Government has been
made extremely uneasy by the bombing incidents that have taken place during this dispute and
finds it extremely difficult to see how those incidents can be justified by any known principle
of international law."

Further testimony was communicated to the Council on October 20th, 1931 (document C.733.
1931), by the Chinese Government in the form of a telegram from Mr. Robert Lewis, stating:

"The Japanese Army is feverishly consolidating its hold on all the principal towns of
Manchuria, outside the railway zone, northward including Kirin and Taonan from Korea
on the cast into Mongolia on the west. They are trying to induce the Mongolian princes to
sign away their rights and to set up an independent government under Japanese protection.
The Japanese Army is rooting out at all centres the Chinese civil government, who are offering
no resistance, and are forcing unwilling Chinese individuals to organise puppet independent
governments in all the main areas. They openly refuse to recognise Chinese national and
civil authority in Manchuria.

"The Japanese have seized the reserves and deposits of the larger Chinese banks, the
records of corporations, and large quantities of both military and industrial supplies. They
are feverishly extending their telegraph and power plants and cutting out the Chinese service.
They have seized the Chinese short-wave and other radio plants and the Chinese telegraphs
and telephone systems; they are now opening mail in the Chinese post offices, including
private letters of Europeans. The Japanese are censoring all Press despatches; we have
proved instances, including those of neutral pressmen, where the censor has changed the
meaning to the exact opposite of that intended.

"The Japanese moved four heavily loaded trains of soldiers from Mukden on the night of
October 13th to the west, seized the Peking-Mukden Railway, and now control that line in
Manchuria. All other Chinese railways in Manchuria have also been seized by the Japanese.
The local police in all the major towns have been re-organised to be under the control of the
Japanese Army. On October 14th, they seized the Chinese mining administration, throwing
15,000 men out of employment. While the negotiations in Geneva have been in progress, the
Japanese Army has been steadily pushing the seizure and commandeering of Chinese property,
including the private residences of high Chinese officials and of civil organisations."

The October 22nd 1931 Resolution.

At the October, or second phase, of the League Council's handling of this dispute, the position
of both Parties was made perfectly clear when the Members of the Council other than the Parties
presented the draft resolution of October 22nd, 1931, which was accepted by the Chinese delegate and rejected by Japan. The text of the October 22nd resolution was as follows:

"The Council, in pursuance of the resolution passed on September 30th, and noting that, in addition to the invocation by the Government of China of Article 11 of the Covenant, Article 2 of the Pact of Paris has also been invoked by a number of Governments:

"(1) Recalls the undertakings given to the Council by the Governments of China and Japan in that resolution, and in particular the statement of the Japanese representative that the Japanese Government would continue as rapidly as possible the withdrawal of its troops into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured, and the statement of the Chinese representative that his Government will assume the responsibility for the safety of the lives and property of Japanese nationals outside that zone—a pledge which implies the effective protection of Japanese subjects residing in Manchuria;

"(2) Recalls, further, that both Governments have given the assurance that they would refrain from any measures which might aggravate the existing situation, and are therefore bound not to resort to any aggressive policy or action and to take measures to suppress hostile agitation;

"(3) Recalls the Japanese statement that Japan has no territorial designs in Manchuria, and notes that this statement is in accordance with the terms of the Covenant of the League of Nations and of the Nine-Power Treaty, the signatories of which are pledged ' to respect the sovereignty, the independence, and the territorial and administrative integrity of China';

"(4) Being convinced that the fulfilment of these assurances and undertakings is essential for the restoration of normal relations between the two Parties;

"(a) Calls upon the Japanese Government to begin immediately and to proceed progressively with the withdrawal of its troops into the railway zone, so that the total withdrawal may be effected before the date fixed for the next meeting of the Council;

"(b) Calls upon the Chinese Government, in execution of its general pledge to assume the responsibility for the safety and lives of all Japanese subjects resident in Manchuria, to make such arrangements for taking over the territory thus evacuated as will ensure the safety of the lives and property of Japanese subjects there, and requests the Chinese Government to associate with the Chinese authorities designated for the above purpose representatives of other Powers, in order that such representatives may follow the execution of the arrangements;

"(5) Recommends that the Chinese and Japanese Governments should immediately appoint representatives to arrange the details of the execution of all points relating to the evacuation and the taking over of the evacuated territory, so that they may proceed smoothly and without delay;

"(6) Recommends the Chinese and Japanese Governments, as soon as the evacuation is completed, to begin direct negotiations on questions outstanding between them, and in particular those arising out of recent incidents as well as those relating to existing difficulties due to the railway situation in Manchuria. For this purpose, the Council suggests that the two Parties should set up a conciliation committee or some such permanent machinery;

"(7) Decides to adjourn till November 16th, at which date it will again examine the situation, but authorises its President to convolve a meeting at any earlier date should it in his opinion be desirable."

China's Position.

Dr. Sze, the Chinese delegate, in informing the Council on October 23rd that the Chinese Government was prepared to accept the resolution, did so in a statement from which the following extracts may be quoted:

"In the view of the Chinese Government, the heart of the proposal is contained in the provision that the Council shall meet again on November 16th, that it calls upon the Japanese Government to begin its withdrawal immediately, to proceed progressively with that withdrawal, and to complete it before the above date, and requests the Chinese Government to associate with the Chinese authorities designated to make arrangements for taking over the territory thus evacuated and ensuring the safety of the lives and property of Japanese subjects there representatives of other Powers, in order that such representatives may follow the execution of these arrangements. . . .
"The Chinese Government accepts this proposal and declares its readiness to carry out to the full all the obligations it lays upon China. Not only does my Government accept, it is willing to go further and to do everything possible to dissipate the apprehensions of the Japanese representative with regard to the safety of Japanese lives and property in the areas re-occupied by the Chinese authorities. I believe these apprehensions to be entirely unfounded. In the view of the Chinese Government, the insecurity and disorder that have arisen within the area occupied by the Japanese troops have their origin precisely in the Japanese occupation, will grow the longer the occupation continues, and will disappear with its termination. But I wish to state that I owe it to courtesy to declare that I am convinced the Japanese Government's anxiety is genuine, and I would ask my Japanese colleague in return to believe that the Chinese Government is sincerely desirous to remove any possible apprehensions on this score.

"So strong is this desire, indeed, that, not only do I accept the proposal in the resolution to invite neutral officers, but I am prepared to go further and to assure the Japanese representative and other Members of the Council that the Chinese Government is willing to examine in the most conciliatory spirit here and now any proposals for extending the system of neutral officers or, with the help of the League, devising any other arrangements on the spot to guarantee the safety of Japanese lives and property in the re-occupied territory, in order to dispel any apprehensions the Japanese Government may entertain as to the danger to its subjects that might result from compliance with the Council's resolution.

"The terms 'evacuation' and 'taking over of evacuated territory' in the resolution I understand to include all Japanese forces of a military or quasi-military character, such as gendarmerie, police and aeroplanes of all kinds, the restoration to Chinese possession of all property, real and personal, public and private, which has been seized by the Japanese since the night of September 18th, and the release from all forms of restraint of Chinese authorities and citizens, and banking or other commercial or industrial establishments. In short, that, so far as possible, the status quo ante shall be re-established.

"Now I come to one more point, which the Chinese Government regards as crucial. Paragraph 6 of the resolution before us makes it clear that withdrawal is the only subject before the Council at present and that, until withdrawal has been completed, no other issue arises. But I should like to make it quite plain that, in the view of the Chinese Government, the only immediate issue arising out of the present situation besides withdrawal is the question of responsibility and assessing damages for the events that have occurred since September 18th. The Chinese Government is willing—nay, anxious, and has been from the beginning—to submit to any form of neutral third-party judgment on this issue, in accordance with the League principles and precedents and in conformity with elementary justice.

"Any attempt to make the military invasion of Manchuria the occasion for pressing for the solution of other claims would be contrary to the spirit of the Covenant and a violation of Article 2 of the Pact of Paris. China will not discuss any subject with any Power under the pressure of military occupation of her territory, nor, what amounts to the same thing, under the pressure of accomplished facts resulting from the use of force during such occupation. This point is vital and goes to the root of the whole controversy before the Council: it is, indeed, the basic principle on which the Covenant and the Pact of Paris are founded. It is because, in the view of the Chinese Government, this point is vital and fundamental that I have stressed it, and it is for the same reason I add that the Chinese Government is assured that, in adopting this attitude, it has, as a matter of course, the full and unqualified moral support of every Member of the League and signatory of the Pact of Paris.

"It further goes without saying that any discussions between China and any other Power on any subject must take place on the basis of China's rights and obligations under the Covenant and Pact of Paris, and must respect the principles laid down at the Washington Conference of 1922 with regard to the relations between China and other Powers.

"In this connection, I wish to say very clearly and deliberately that, once this unhappy incident is settled and normal relations restored between China and Japan, the Japanese Government will find us not only willing, but also anxious, to discuss every issue between the two countries in the most friendly spirit. China has but one desire—to live at peace with all countries and particularly so with her neighbours, and hopes that the very magnitude of the shock to the relations of the two countries that has brought them before the League will result in the stubborn resolve on both sides to put these relations on a new and better footing and to lay the foundation for permanent peace in the Far East. It is in this spirit that the Chinese Government welcomes the Council's proposal of a permanent conciliation commission, or similar body, and it is in this spirit, too, that I wish to assure the Council that the Chinese Government, for its part, will not only scrupulously observe all its obligations under international law and practice to promote good relations with Japan, but will do everything in its power to turn the thoughts of its people to peace and amity, forgetfulness of the
bitter past, and hope for a better future." (Official Journal, December 1931, pages 2345 and 2346).

Japan's Position.

The Japanese representative, with curious logic, again complained that the presence of Chinese forces on their own territory in proximity to the invading army of Japan constituted a menace, and absolutely declined any arrangement fixing a date for evacuation. "That does not mean to say, in any way," he went on, "that it is not the Japanese Government's firm intention to bring them back, nor does it mean that it has any desire to leave them where they are in order to secure from China further concessions or special privileges of whatsoever kind. .. .. There is no question of our attempt to wrest concessions or privileges from China."

He proceeded with the statement that his Government had carefully thought out a number of fundamental points upon which normal relations between China and Japan should be based; but he still failed to disclose what these points were (Official Journal, December 1931, pages 2347 and 2348). The Japanese representative concluded by suggesting counter-proposals, which in substance invited the Council to take the position that the withdrawal of Japanese forces should not take place until there had been a previous agreement between China and Japan on the mysterious fundamental principles.

The Council's View.

The Council pressed the Japanese representative to state the nature of the principles to which it was asked to subscribe, and he maintained his demand that the Council should sanction them in ignorance of their character. In the course of the discussion, the President, M. Briand, said:

"There is one point with regard to which I should like to ask our Japanese colleague for further explanation, for I think it is the crucial point."

"There are two ways in which the two Governments can engage in conversations; these conversations—or negotiations, if you like to call them negotiations—may bear upon two very different subjects or groups of subjects.

"The first group relates to the statements made by the Parties and repeated to-day, regarding the conditions of security which must first be established in order to enable the Japanese Government to withdraw its troops in satisfactory circumstances—for example, with the certainty that the Japanese nationals and their property in an evacuated area will not be subject to reprisals after the troops have left. In regard to this kind of discussion, the representative of Japan is entirely at one with the Chinese representative."

"On this point, I therefore believe agreement should be easy, because it concerns police measures, administrative measures, possibly military measures; these are questions which can rapidly be settled."

"The second group includes questions on which, for a long time past, the two countries have been unable to agree. If, before evacuation, matters which have not been settled for months and even for years must be discussed between the two Governments, obviously the time-limit contemplated by the Council is far too short to enable results to be achieved. On this point there is complete disagreement between the two Parties. The Chinese view is that negotiations of this nature must be postponed to a date when military pressure no longer exists. They are rejected as a condition of evacuation."

"That is the problem, and I think that agreement depends on the solution of that problem."

"When reference is made to 'fundamental principles' in Point 4 of the Japanese text, is there any idea of bringing under this term any of the questions which are to form the subject of the fundamental negotiations, as constituting an element of security? If so, the whole problem, with all its difficulties, is again before us."

(Official Journal, December 1931, page 2349.)

The next day, October 24th, the Council once more pressed the Japanese delegate to state whether fundamental principles meant only what the President defined as security—if so, there seemed no good reason why the Japanese representative should not accept the Council resolution; or if, in addition to executive and administrative details of evacuation, he meant discussion of some political questions. "If so," said Lord Cecil, speaking for the British Government, "I beg him, with all the strength at my command, to say so quite plainly and clearly in order that we may know exactly where we are." "Did Japan desire," further asked Lord Cecil, "to enter into a discussion of treaty obligations with China concerning Manchuria before evacuation? If this was so, let him state the fact plainly."

"The League could, at any moment, obviously express the view that all treaties ought to be carried out; but that is not the question before us. The treaties hold; but to discuss up to what point they bind the contracting parties would seem to me to be definitely reversing the order of things. Evacuation must take place first. Discussion of the treaties may follow. It is an important matter, but is not one which directly affects the safety of the nationals of Japan, and therefore is not one which ought to be discussed before the Japanese troops retire from the territory which they occupy."

(Official Journal, December 1931, page 2354.)

The Spanish delegate, M. de Madariaga, pointed out that the Council had a twofold duty: namely, not only to settle the conflict between the two Powers, but to maintain intact the League.
of Nations, on which the peace of the world depended. The League of Nations was based on respect for the territorial integrity and political independence of its Members. The idea of security was at the very centre of the life of the League:

"As representative of a European State, of a State which has to watch over the possibility of disputes, I see a danger in allowing anyone to claim the right to remain on the spot when that party has invaded a territory in which it has no right to be, by stating that there is no security, particularly as in certain respects at least the party is partially responsible for the state of insecurity.

"That is a first point to which I wish, very respectfully, but very firmly to draw the attention of my Japanese colleague.

"There is a second point which seems to me still more dangerous and which obliges me to support very strongly the attitude adopted here by the British representative. Do the famous fundamental points really derive from security and nothing but security, from evacuation and nothing but evacuation? If there is anything else, what we really have is a linking up of concepts, a line of reasoning which would allow the conceptions of security to be extended ad infinitum." (Official Journal, December 1931, pages 2352 and 2353.)

The President then stated:

"The Council has two texts before it—the draft resolution prepared and adopted by all the Members of the Council except the two parties to the case, and the counter-proposal submitted by the representative of Japan, which we have already discussed at great length.

"The fundamental point on which the two texts differ is the measures proposed with a view to ensuring the safety of property and persons, as has been promised by China to enable Japan to withdraw her troops.

"I must say—and I am sure the representative of Japan will agree with me—that the Council's text at any rate possesses the merit of being absolutely clear. No part of it has been discussed on the grounds that it might be interpreted in several ways.

"The text adopted by the Council is based on a desire to ensure respect for treaty obligations, on the undertakings already entered into by the Parties, and, in particular, on the statement by the Japanese representative accepted in the resolution of September 30th—that is to say, before the dispute had become heated, and when therefore matters could be viewed more calmly. This is the declaration made at the time by the Japanese representative:

"'The Japanese Government will continue, as rapidly as possible, the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured, and it hopes to carry out this intention in full as speedily as may be.'

"This declaration refers, in the matter of safety, to steps which cannot fail to be taken rapidly; otherwise, the Japanese Government would not at that date have commenced evacuation and have promised to complete that evacuation at an early date. When negotiations have to be conducted between Governments regarding the interpretation of treaties and railway questions, it is impossible to be sure that a conclusion will be reached in a short space of time. The Japanese representative, with his long diplomatic experience, knows how difficult it is, when a political case arises between two Governments, to reach a conclusion; how slow the negotiations are, and what patience is required to achieve a result. The Japanese Government therefore intended to refer to precautions for assuring safety, decided upon jointly and with the least possible delay in order to allow rapid evacuation.

Article 10 of the Covenant and Article 2 of the Paris Pact.

"Article 10 of the Covenant does not call for any commentary. It says that all Members of the League must undertake to respect the territorial integrity of the other Members and refrain from any act which might prejudice the political independence of others.

"Article 2 of the Paris Pact, which has been invoked here, is also very clear:

"'The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be which may arise among them shall never be sought except by pacific means.'

"This is a dispute which has been laid before the Council. There can be no question of dealing with it by other than pacific means. Japan, who always so scrupulously honours her obligations, could not dream of adopting other means.

"I do not wish to dwell unduly on this point; but public opinion would not readily admit that a military occupation under these circumstances could be regarded as coming under the heading of pacific means. To prolong this situation would be to perpetuate a state of anxiety which has already lasted too long.
"It seemed to me that the Japanese Government intended to begin negotiations concerning the substance of certain delicate problems which have long existed. That intention caused me uneasiness. But our colleague has told us: 'That is not the case. We quite admit that negotiations should be begun with regard to these great problems after the evacuation'. I wish to endorse the observation of the Spanish representative that, as clear evidence of the good-will of both countries, these negotiations should be begun on the very day on which evacuation is completed. But the Japanese representative states that the terms of his counter-proposal do not refer to questions of a general nature but only to security. Nevertheless, on this point there has been a hesitancy which it has been impossible to overcome in spite of the good-will displayed on every side this morning. The mere fact that such hesitancy exists shows that it would be better to have a clearer text.

"What is the essential point? The representative of Japan states: 'We are prepared to go; but we do not want our nationals to be the victims of reprisals immediately we have left. We wish to be sure that they will be protected.' The Chinese Government recognises that this desire is a natural one and states that it is ready to enter into immediate negotiations in order to regulate the conditions of evacuation and provide the guarantees of safety which Japan desires.

"That can be done very rapidly. There are precedents. Troops are about to leave a territory which they have administered, in which they have organised municipal service, police and various administrative departments. These various bodies have to be replaced. But that can be settled after a few hours', or at most a few days', discussion."

In spite, however, of these eloquent and cogent appeals and arguments, the Japanese delegate maintained his insistence on preliminary agreement on unnamed fundamental principles between the Chinese and Japanese Governments, to be reached in direct negotiations, as a condition precedent to evacuation. The text of these principles has never been disclosed to this day, although an indication of their general character has been given by the Japanese Government. It was made clear in the course of the discussions at the time of the November-December Council meeting that the Japanese Government regarded these fundamental principles as merely a summary, each with its own chapter of demands, to be disclosed to the Chinese Government when direct negotiations had begun and to be accepted by the Chinese Government in the form of a treaty or treaties before Japanese evacuation began.

**China and Japan's Positions on Arbitration and Respect for Treaty Rights.**

In the course of the Council's deliberations, Lord Cecil pointed out:

"The Covenant sets out as one of the main purposes of the League the 'maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another'. Of course, it is quite possible that there may be a dispute between the Parties to treaties as to the validity of a treaty or as to the interpretation of a treaty. Fortunately, any such dispute as that can now be settled authoritatively by an appeal to the Permanent Court of International Justice at The Hague, over which, as it happens, a Japanese national at the moment presides. It is certain that any such question would be discussed with absolute fairness and impartiality at The Hague." (Official Journal, December 1931, page 2354.)

Immediately after the Council adjourned, the Chinese delegate addressed the following communication to the President:

"With reference to the observations on treaty obligations made in the Council this morning by the honourable delegate for Great Britain, with which I am in hearty agreement, I am authorised by my Government to make the following declaration:

"China, like every Member of the League of Nations, is bound by the Covenant to 'a scrupulous respect for all treaty obligations'. The Chinese Government for its part is determined loyally to fulfil all its obligations under the Covenant. It is prepared to give proofs of this intention by undertaking to settle all disputes with Japan as to treaty interpretation by arbitration or judicial settlement, as provided in Article 13 of the Covenant.

"In pursuance of this purpose, the Chinese Government is willing to conclude with Japan a treaty of arbitration similar to that recently concluded with the United States, or to those concluded of recent years in increasing numbers between Members of the League."

When the Chinese representative stated, in the Council meeting of January 29th, 1932, that Japan had violated her obligation under Article 12 of the Covenant, which binds Members of the
League to submit disputes to arbitration, judicial settlement or enquiry by the Council, and not to resort to war, the Japanese representative replied:

"The Chinese delegate has stated that Japan has never submitted this conflict to arbitration or to pacific settlement, as is required in accordance with Article 12. That is perfectly true; but it is a well-known fact that Japan is not prepared to accept arbitration with every country irrespectively."

This is a formal admission by the representative of the Japanese Government that his country is violating Article 12 of the Covenant.

The issue was therefore left perfectly clear by the October meeting of the Council and revealed a widening gap between Japan's policy on the one hand and her treaty obligations under the Covenant, the Paris Pact and the Nine-Power Treaty on the other. It also gave the Chinese Government heartening proof that its attitude in refusing direct negotiations under the pressure of military occupation as being incompatible with these treaties was endorsed by the Governments Members of the Council, notably the French Government, represented by its Foreign Minister, M. Briand, who was the President, and by the British Government, represented by Lord Cecil.


As this issue, in the view of the Chinese Government, is fundamental and there is unfortunately no reason to believe that Japan has abandoned her intention of dictating a settlement under military pressure, it is desirable to explain China's position a little more fully, with special reference to the analogy that is often drawn between the Japanese position in Kiaochow after the world war and the present situation in Manchuria. At the time of the Washington Conference, the Chinese and Japanese Governments (with Mr. Hughes for the United States of America, and Sir Arthur, afterwards Lord, Balfour for the British Empire, acting as neutral "referees") negotiated an agreement covering the terms on which the latter should evacuate the former German leased territory of Kiaochow in Shantung. The negotiations lasted months and involved a number of political and economic issues.

The False Analogy of Shantung.

But there is a fundamental difference between Japan's position in Kiaochow in 1922 and Japan's position in Manchuria to-day. Whereas Japanese occupation of Kiaochow during the world war might have been justified as an act against Germany, and as such was given political sanction by the Versailles Peace Treaty, the invasion of Manchuria occurred in peace-time and, so far from obtaining any international recognition, is a direct violation of the Covenant, the Peace Pact and the Nine-Power Treaty. The Chinese Government was compelled to bargain with Japan as to the terms on which she would surrender her position in Shantung, but considers that to negotiate with Japan on the basis of the latter's military occupation of Manchuria would be, not only condoning Japanese violation of these treaties, but would also actually amount to a violation of her treaty obligations by China. This view has been flatly endorsed by the United States of America in its Note of January 8th, 1932, to the Chinese and Japanese Governments, 1 and by the President of the Council in the declaration made on January 25th in the name of all the Members of the Council except the Parties. 2 The Note and the declaration make it clear that any settlement arrived at by means incompatible with the Peace Pact—and the President of the Council, on October 23rd last, pointed out in the said declaration that military occupation is not a pacific means of settlement in the sense of Article 2 of the Peace Pact—or any settlement which by its nature is incompatible with the Covenant (particularly Article 10) or the Nine-Power Treaty (particularly Article 1) will not be recognised by the United States of America or endorsed by the League of Nations.

Japan's Disclaimer of Intent to use Armed Pressure and Insistence on the Fundamental Principles.

Soon after the October meeting, the Japanese Government, in a note dated October 26th (document C.764.1931), informed the Council that, "as has been repeatedly emphasised by the Japanese Government, the whole Manchurian affair was occasioned solely by the violent and provocative attack launched by the Chinese army on the railway zone. Certain small contingents of Japanese soldiers still remaining at a few points outside that zone are insistently demanded by the danger to which the large population of Japanese in that region are exposed in life and property. The presence of such a limited number of troops is quite incapable of being represented as a means of dictating to China Japan's terms for the settlement of present difficulties. Nothing is farther from the thoughts of Japan than to bring armed pressure to bear upon China in the course of these negotiations. " It then complained of anti-Japanese feeling, which was said to be displayed by text-books used in various schools in China and to be deeply seated in the Chinese mind, and of the agitation against Japan's rights and interests which was said to be

1 Vide infra, page 154.
2 Vide infra, page 155.
going on in China. The risks and dangers to Japanese subjects caused by this situation were so great, the Japanese Government informed the Council, that it could not withdraw its troops without provision being first made to remove national antipathies and suspicion between the two countries, for which reason they should come to an agreement on basic principles which related to the following five matters:

(1) Mutual repudiation of aggressive policy and conduct;
(2) Respect for China’s territorial integrity;
(3) Complete suppression of all organised movements interfering with freedom of trade and stirring up international hatred;
(4) Effective protection throughout Manchuria of all peaceful pursuits undertaken by Japanese subjects;
(5) Respect for treaty rights of Japan in Manchuria.

In its comments (document C.783.1931) on this note, the Chinese Government expressed its satisfaction at “the emphatic denial of the Japanese Government that it has any intention to bring armed pressure to bear in its negotiations with China. But the Chinese Government feels constrained to point out that, if this be the view of the Japanese Government, the only way to give effect to it is to cease to demand, as a condition precedent to the evacuation of its troops, that China should come to an agreement with Japan on basic principles which are to govern the whole of the future relations of the two countries”.

The President of the Council’s Views.

On October 29th, the President of the Council sent a reply (document C.776.1931) to the Japanese note, from which the following passages may be quoted:

“Independent of the vote taken at the last Council meeting, which retains its full moral force, we still have before us, from the juridical standpoint, a valid resolution—namely, that which was unanimously adopted on September 30th and which retains its full executory force.

In that resolution, the Council noted the statement made by the Japanese representative that the Japanese Government ‘will continue as rapidly as possible with the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and that it hopes to carry out this intention in full as speedily as may be’. No indication whatever was given at that time by the Japanese representative that matters, such as an agreement as to the treaty rights of Japan in Manchuria, were in any way connected with the safety of the lives and property of Japanese nationals.

It is further to be noted that, in the two draft resolutions submitted to the Council on October 24th, the first three paragraphs are exactly the same, Your Excellency having withdrawn the amendment to paragraph 3 which you had submitted. It may therefore be assumed that these paragraphs express the will of the two Parties. In its declaration of October 26th, the Japanese Government further stated that, when it referred to certain fundamental principles, it had in mind the following:

“(1) Mutual repudiation of aggressive policy and conduct—Paragraph 2 of the two drafts submitted on October 24th states that ‘the two Governments are bound not to resort to any aggressive policy or action’.
“(2) Respect for China’s territorial integrity. Paragraph 3 of the two drafts records an undertaking to that effect.
“(3) Complete suppression of all organised movements interfering with freedom of trade and stirring up international hatred. Paragraph 2 of the two drafts declares that the two Governments ‘are bound to take measures to suppress hostile agitation’;
“(4) Effective protection throughout Manchuria in order to allow Japanese nationals to engage there in any peaceful pursuits. Paragraph 1 of both drafts declares that the Chinese Government is pledged to the effective protection of Japanese subjects residing in Manchuria.

“The fact that, on the one hand, the Chinese representative accepted the terms of the resolution which I proposed on behalf of my colleagues and that, on the other hand, the counter-draft of the Japanese representative contained the three paragraphs to which I have referred, shows that the two Governments are in complete agreement on these four points.

“There remains only the last point: ‘Respect for treaty rights of Japan in Manchuria’.

“With regard to this point, I would call Your Excellency’s attention to the letter addressed to me by the Chinese representative on October 24th, in which Dr. Sze declares that ‘China, like every Member of the League of Nations, is bound by the Covenant to a “scrupulous respect for all treaty obligations”’. The Chinese Government for its part is determined loyally to fulfill all its obligations under the Covenant. It is prepared to give proofs of this intention by undertaking to settle all disputes with Japan as to treaty interpretation by arbitration or judicial settlement, as provided in Article 13 of the Covenant’.”
“It therefore appears to me, and I feel sure that my colleagues on the Council, including, I trust, Your Excellency, will agree that the Chinese Government has given to the Council of the League, on which Japan has a permanent representative, pledges which cover the various fundamental principles raised by the Japanese Government.

“In these circumstances, I feel confident that the Japanese Government, being desirous of fulfilling the undertaking which is solemnly contracted under the terms of the resolution of September 30th and which, moreover, it repeatedly confirmed by its declarations during the last session of the Council, at the meetings of October 22nd, 23rd and 24th, will continue as rapidly as possible with the withdrawal of its troops into the railway zone and that it will thus be able to carry out that intention to the full in the shortest possible time”.

**Japan’s Reply.**

The Japanese reply to the President’s note declared that the phrases used in the Council resolution (and incidentally, as the President had pointed out, in the Japanese counter-proposals) were not sufficiently explicit and comprehensive to cover all implications of the Japanese points, and reaffirmed the Japanese Government’s unalterable insistence upon reaching a settlement on the basis of the fundamental principles in direct negotiations as a condition precedent to evacuation (document C.814.1931).

**Extension of Japanese Occupation.**

Meanwhile, the Japanese army was steadily extending and consolidating its illegal occupation. The driving-out and slaughter of the lawful Chinese authorities was followed by the setting-up of puppet authorities under Japanese control; Japanese advisers and controllers were established in banks, commercial enterprises, municipal administrations and public and private institutions of every kind; the salt revenues were seized by Japanese soldiers and made over to these puppet authorities; Chinese-owned coal-mines were occupied and the land registers and title-deeds found in the archives of the provincial capitals were falsified or destroyed on a large scale so as to make over the land to Japanese subjects.

In a note (document C.789.1931) dated November 3rd, the Chinese delegation expressed its concern at these developments in the following terms:

“The Chinese Government is gravely concerned over the developments in Manchuria since the adjournment of the Council. The attached memorandum, which contains a summary of these developments, shows that, although ten days have elapsed since the adjournment of the Council on October 24th and more than a month since the adjournment of September 30th, not only has there been not the slightest preparation for withdrawal, but, on the contrary, the Japanese Army is steadily extending and consolidating its grip on South Manchuria and is making attempts to penetrate into North Manchuria that are causing anxiety in Moscow.

“It may be remembered that, in the resolution of September 30th, which was accepted by and is binding upon Japan, it was stated that the Japanese Government ‘will continue as rapidly as possible the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured’. The declaration, made over a month ago, that withdrawal had already been begun is unfortunately not substantiated by the facts. Not only has withdrawal not been begun, but the Japanese Government now refuses to honour the promise it made before the Council and declares that it will not begin withdrawal until it has negotiated an agreement with China on certain ‘fundamental principles’. This new policy was set forth in the Japanese Government’s note to the Chinese Government on October 9th, and again before the Council on October 23rd and 24th. This position was reiterated a few days ago, when the Japanese Government refused to appoint representatives to discuss with the representatives of the Chinese Government the details and methods of withdrawal as proposed in the resolution submitted by the Council on October 22nd. The measures proposed in this resolution, which retains its full moral force, are merely indications of how to carry out the policy to which both parties were pledged by the resolution of September 30th. It is this which makes the Japanese Government’s change of attitude and insistence upon an agreement upon ‘fundamental principles’, by means of direct negotiations, as a preliminary to withdrawal, so profoundly disquieting.

“This attitude of Japan, as was pointed out in the Council on October 23rd and 24th, is in violation of Article 10 of the Covenant and Article 2 of the Pact of Paris. The Chinese Government must reiterate its firm determination never, in any circumstances, to agree to negotiations under the pressure of military occupation and confidently looks to the Members of the League and the United States of America not to suffer the Covenant, the Pact of Paris and the Washington Nine-Power Treaty to be trampled underfoot.”

The November-December Council Meeting.

The opening of the November Council meeting practically coincided with the taking of Tsitsihar, the capital of Heilungkiang, the northernmost of the North-Eastern Provinces. This
The December-10th Resolution and the Committee of Enquiry.

The outcome of the November-December meeting of the Council was the December-10th resolution, which reads as follows:

"The Council:

1. Reaffirms the resolution passed unanimously by it on September 30th, 1931, by which the two Parties declare that they are solemnly bound. It therefore calls upon the Chinese and Japanese Governments to take all steps necessary to assure its execution, so that the withdrawal of the Japanese troops within the railway zone may be effected as speedily as possible under the conditions set forth in the said resolution.

2. Considering that events have assumed an even more serious aspect since the Council meeting of October 24th, notes that the two Parties undertake to adopt all measures necessary to avoid any further aggravation of the situation and to refrain from any initiative which may lead to further fighting and loss of life.

3. Invites the two Parties to continue to keep the Council informed as to the development of the situation.

4. Invites the other Members of the Council to furnish the Council with any information received from their representatives on the spot.

5. Without prejudice to the carrying out of the above-mentioned measures,

"Desiring, in view of the special circumstances of the case, to contribute towards a final and fundamental solution by the two Governments of the question at issue between them:

"Decides to appoint a Commission of five members to study on the spot and to report to the Council on any circumstance which, affecting international relations, threatens to disturb peace between China and Japan, or the good understanding between them upon which peace depends.

"The Governments of China and of Japan will each have the right to nominate one assessor to assist the Commission.

"The two Governments will afford the Commission all facilities to obtain on the spot whatever information it may require.

"It is understood that, should the two Parties initiate any negotiations, these would not fall within the scope of the terms of reference of the Commission, nor would it be within the competence of the Commission to interfere with the military arrangements of either Party.

"The appointment and deliberations of the Commission shall not prejudice in any way the undertaking given by the Japanese Government in the resolution of September 30th as regards withdrawal of the Japanese troops within the railway zone.

"6. Between now and its next ordinary session, which will be held on January 25th, 1932, the Council, which remains seized of the matter, invites its President to follow the question and to summon it afresh if necessary."

The President, M. Briand, read an explanatory statement on the resolution in the following terms:

"It will observed that the resolution which is before you provides for action on two separate lines: (1) to put an end to the immediate threat to peace; (2) to facilitate the final solution of existing causes of dispute between the two countries.

"The Council was glad to find during its present sittings that an enquiry into the circumstances which tend to disturb the relations between China and Japan, in itself desirable, would be acceptable to the Parties. The Council therefore welcomed the proposal to establish a Commission which was brought before it on November 21st. The final paragraph of the resolution provides for the appointment and functioning of such a Commission.

"I shall now make certain comments on the resolution, paragraph by paragraph:

"Paragraph 1. — This paragraph reaffirms the resolution unanimously adopted by the Council on September 30th, laying particular stress on the withdrawal of the Japanese troops within the railway zone on the conditions described therein as speedily as possible.

"The Council attaches the utmost importance to this resolution, and is persuaded that the two Governments will set themselves to the complete fulfilment of the engagements which they assumed on September 30th."

The city is to the north of the Chinese Eastern Railway and hundreds of miles from the nearest point on the South Manchurian line, and the Japanese Government had given pledges in Washington, London and Paris not to take Tsitsihar.
Paragraph 2. — It is an unfortunate fact that, since the last meeting of the Council, events have occurred which have seriously aggravated the situation and have given rise to legitimate apprehension. It is indispensable and urgent to abstain from any initiative which may lead to further fighting, and from all other action likely to aggravate the situation.

Paragraph 4. — Under Paragraph 4, the Members of the Council other than the Parties are requested to continue to furnish the Council with information received from their representatives on the spot.

Such information having proved of high value in the past, the Powers which have the possibility of sending such representatives to various localities have agreed to do all that is possible to continue and improve the present system.

For this purpose, these Powers will keep in touch with the two Parties, so that the latter may, should they so desire, indicate to them the localities to which they would desire the despatch of such representatives.

Paragraph 5. — Provides for the institution of a Commission of Enquiry. Subject to its purely advisory character, the terms of reference of the Commission are wide. In principle, no question which it feels called upon to study will be excluded provided that the question relates to any circumstances which, affecting international relations, threaten to disturb peace between China and Japan, or the good understanding between them upon which peace depends. Each of the two Governments will have the right to request the Commission to consider any question the examination of which it particularly desires. The Commission will have full discretion to determine the questions upon which it will report to the Council and will have power to make interim reports when desirable.

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If the undertakings given by the two Parties according to the resolution of September 30th have not been carried out by the time of the arrival of the Commission, the Commission should as speedily as possible report to the Council on the situation.

It is specially provided that 'should the two Parties initiate any negotiations, these would not fall within the scope of the terms of reference of the Commission, nor would it be within the competence of the Commission to interfere with the military arrangements of either Party'. This latter provision does not limit in any way its faculty of investigation. It is also clear that the Commission will enjoy full liberty of movement in order to obtain the information it may require for its reports.” (Page 71 of the December number of “The League and Manchuria”.)

The Japanese representative, on behalf of his Government, accepted the resolution with this single observation of substance:

"With regard to paragraph 2 of the draft resolution, I am happy to accept it on behalf of the Japanese Government, on the understanding that this paragraph is not intended to preclude the Japanese forces from taking such action as may be rendered necessary to provide directly for the protection of the lives and property of Japanese subjects against the activities of bandits and lawless elements rampant in various parts of Manchuria. Such action is admittedly an exceptional measure called for by the special situation prevailing in Manchuria, and its necessity will naturally be obviated when normal conditions shall have been restored in that region.”

The Chinese delegate said he accepted the resolution with the following observations and reservations in point of principle:

I. China must and does fully reserve any and all rights, remedies and juridical positions to which she is or may be entitled under and by virtue of all the provisions of the Covenant, under all the existing treaties to which China is a party, and under the accepted principles of international law and practice.

II. The present arrangement evidenced by the resolution and the statement made by the President of the Council is regarded by China as a practical measure embodying four essential and interdependent elements:

(a) Immediate cessation of hostilities;
(b) Liquidation of the Japanese occupation of Manchuria within the shortest possible period of time;
(c) Neutral observation and reporting upon all developments from now on;
(d) A comprehensive enquiry into the entire Manchurian situation on the spot by a Commission appointed by the Council.

The said arrangement being in effect and in spirit predicated upon these fundamental factors, its integrity would be manifestly destroyed by the failure of any one of them to materialise and be effectively realised as contemplated.

III. China understands and expects that the Commission provided for in the resolution will make it its first duty to enquire into, and report with its recommendations on, the
withdrawal of the Japanese forces if such withdrawal has not been completed when the Commission arrives on the spot.

" IV. China assumes that the said arrangement neither directly nor by implication affects the question of reparations and damages to China and her nationals growing out of the recent events in Manchuria, and makes specific reservation in that respect.

" V. In accepting the resolution laid before us, China appreciates the efforts of the Council to prevent further fighting and bloodshed by enjoining both China and Japan to avoid any initiative which may lead to further fighting or any other action likely to aggravate the situation. It must be clearly pointed out that this injunction should not be violated under the pretext of the existence of lawlessness caused by a state of affairs which it is the very purpose of the resolution to do away with. It is to be observed that much of the lawlessness now prevalent in Manchuria is due to the interruption of normal life caused by the invasion of the Japanese forces. The only sure way of restoring the normal peaceful life is to hasten the withdrawal of the Japanese troops and allow the Chinese authorities to assume the responsibility for the maintenance of peace and order. China cannot tolerate the invasion and occupation of her territory by the troops of any foreign country; far less can she permit these troops to usurp the police functions of the Chinese authorities.

" VI. China notes with satisfaction the purpose to continue and improve the present system of neutral observation and reporting through representatives of other Powers, and China will from time to time, as occasion requires, indicate the localities to which it seems desirable to despatch such representatives.

" VII. It should be understood that, in agreeing to this resolution, which provides for the withdrawal of the Japanese forces to the railway zone, China in no way recedes from the position she has always taken with respect to the maintenance of military forces in the said railway zone.

" VIII. China would regard any attempt by Japan to bring about complications of a political character affecting China's territorial or administrative integrity (such as promoting so-called independence movements or utilising disorderly elements for such purposes) as an obvious violation of the undertaking to avoid any further aggravation of the situation."

In adopting this resolution, M. Matos, the delegate of Guatemala, made the following observation:

"It is obvious, according to existing treaties, that it is inadmissible that disputes arising between States, whatever their nature or origin, should be settled by other than pacific means. Nor is it admissible that the respect for and execution of treaties between countries can depend upon the will of one of the Parties. Such methods would be completely destructive of the international order, and hence of the maintenance of peace . . .

"I should like to say, however, that it would have been impossible for me to vote for the resolution if it had not embodied the principle proclaimed by M. Briand at the end of our October meeting. This principle is that the military occupation of the territory of a Member of the League cannot be used by another Member of the League to impose direct negotiations on questions that are pending. It is because this great principle has been safeguarded that I cannot oppose the resolution which has been adopted."

The following reservation made by M. Gonzalez-Prada, the Peruvian delegate, should also be noted:

"Nothing in the text to which I have given my approval in order not to raise any obstacle to the pacific settlement of a dispute must be interpreted as affecting certain principles without which the existence and the rights of weak countries would not have that security which makes force unnecessary, this being the main purpose pursued by the Covenant of the League.

"Some of these principles are as follows:

"1. No State has the right to effect a military occupation of the territory of another in order to ensure the execution of certain treaties;

"2. No State is entitled to oblige another—having invaded its territory—to enter upon direct negotiations on the bearing and legal value of treaties previously existing between the two States;

"3. The exercise of the right possessed by each State to ensure the protection of the lives and property of its nationals must be limited by respect for the sovereignty of the other State; no State being entitled, in order to provide such protection, to authorise its military forces to penetrate into the territory of the other for the purpose of carrying out police operations.

1 Official Journal, December 1931, pages 2376 and 2377.
4. The fact that a State has certain rights, claims, economic concessions, etc., in regard to another State does not entitle the former to effect the military occupation of the territory or to seize the property of the debtor State. Any recovery of debts by compulsion is illicit, in accordance with the principles adopted by the Second Peace Conference (The Hague, 1907).

"Even if the measures which have been accepted by the two Parties concerned, and which we have adopted exceptionally in the special case of Manchuria, may be justifiable for the immediate purpose of averting war, they must in no case be interpreted as implying a renunciation of the principles of international law which have reference to the defence of the rights and interests of weak countries and which constitute the main safeguard of their independence."

The Taking of Chinchow.

At the conclusion of the December Council meeting, the Japanese Government gave separate assurances to the Governments of the United States of America, Great Britain and France that the city of Chinchow, which was the last remaining foothold of the lawful Chinese Government in the North-Eastern Provinces, would not be attacked. In his note of December 27th, 1931, to the Japanese Minister of Foreign Affairs, the American Secretary of State said:

"Your Excellency will remember that, on November 24th, in response to my representations through Ambassador Forbes, you assured me, with the concurrence of the Minister of War and the Chief of Staff that there would be no movement of Japanese troops in the direction of Chinchow and informed me that orders to that effect had been given to the Japanese troops."

This pledge was in addition to the undertakings given to the Council and embodied in the resolutions of September 30th and December 10th, 1931, to refrain from doing anything to aggravate the situation. The observers in Chinchow of the various Members of the Council reported frequently that all was quiet in this sector and that there were no signs of any Chinese troop concentration or activity, or of any intention to take hostile action. There were practically no Japanese subjects in and around Chinchow, and the neutral observers reported public order fully maintained in the city and its vicinity. Nevertheless, the Japanese army, in spite of the Government’s pledges, brushed aside the testimony of the neutral observers on the allegation that they were ignorant or misinformed, and occupied Chinchow with, as usual, the heavy bombing from aeroplanes of the various towns and junctions in its path, entailing much loss of civilian life and destruction of property.

On January 8th, 1932, the United States Government addressed the following note to the Governments of both Japan and China:

"With the recent military operations about Chinchow, the last remaining administrative authority of the Government of the Chinese Republic in South Manchuria, as it existed prior to September 18th, 1931, has been destroyed. The American Government continues confident that the work of the Neutral Commission recently authorised by the Council of the League of Nations will facilitate an ultimate solution of the difficulties now existing between China and Japan. But, in view of the present situation and of its own rights and obligations therein, the American Government deems it to be its duty to notify both the Imperial Japanese Government and the Government of the Chinese Republic that it cannot admit the legality of any situation de facto, nor does it intend to recognise any treaty or agreement entered into between those Governments or agents thereof which may impair treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China or the international policy relative to China commonly known as ‘The Open-Door Policy’, and that it does not intend to recognise any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27th, 1928, to which treaty both China and Japan as well as the United States are parties."

China immediately replied as follows:

"It is amply evident that the American Government takes the most serious view of the lawless acts of the Japanese military forces in the three Eastern Provinces and that it upholds also the dignity of the international covenants and of the Pact against War. The Chinese Government, from the time that the present events in the North-East began on September 18th, 1931, and up to the present day, has in every respect fulfilled its duties as prescribed in the Pact against War, and the Chinese Government therefore has taken no steps of any nature whatever calculated to aggravate the situation, but has, in accordance with the procedures set forth in the existing international covenants, asked that signatory Powers direct their
special attention to these events. The Japanese military forces, on the contrary, following the adoption of the resolution of the League of Nations on September 30th, 1931, and the meeting of the Council on October 24th, 1931, have still continuously extended the field of their invasion, and, even after the passing of the League’s resolution on December 10th, 1931, have openly invaded and seized Chinshow, the seat of the Chinese local government. More recently, Japan has occupied Suichung and advanced to Shanhaikwan, and has increased the numbers of the Japanese vessels and troops at Chinwangtao, Tientsin and other places. In addition to this, there are indications of the intention to attack Jehol.

"Those violations of the Covenant of the League of Nations, the Nine-Power Treaty and the Pact against War, and this disregard of the repeated decisions of the League, are facts which it has not been possible to conceal. The Japanese Government therefore must bear full responsibility for all the events involved.

"With reference to the notification of Your Excellency’s Government that in this matter it does not recognise as legal any situation de facto, I have the honour to state that the Chinese Government has repeatedly lodged with the Japanese Government gravest protests against the various invasions and lawless acts perpetrated by the Japanese troops since September 18th, 1931, and has made it known internationally that the Chinese Government accords them no recognition whatever.

"With regard to the treaties or agreements referred to in the note under reply, I have the honour to state that the Chinese Government has repeatedly lodged with the Japanese Government gravest protests against the various invasions and lawless acts perpetrated by the Japanese troops since September 18th, 1931, and has made it known internationally that the Chinese Government accords them no recognition whatever.

"It is the sincere hope of the Chinese Government that Your Excellency’s Government will continue to promote the effectiveness of the international covenants in order that their dignity may be conserved."

The Council, in its turn, supported the Chinese and American point of view in the declaration read by the President on January 26th, 1932, in the name of all the Governments Members of the Council except the Parties. In the course of this declaration the President said:

"In that note, the United States Government called the attention of the two Parties to the treaties which are binding upon them. For our part, we felt bound to assert in the statement that we had prepared that a settlement of the difficulties between the two Governments, Members of the League of Nations, could not be sought in arrangements inconsistent with their international obligations, more especially those arising out of Article 10 of the Covenant, by which they had undertaken to respect the territorial integrity and political independence of all Members of the League, and we concluded the statement which had been prepared in these words: ‘It would be impossible for the League to endorse a settlement secured by means contrary to the obligations above referred to.’"

The Chinese Government understands this declaration to mean that the Members of the Council consider it would be a violation of the obligations of Members of the League under Article 20, paragraph 1, of the Covenant to recognise any treaty or agreement which violates Article 10 or Article 1 of the Nine-Power Treaty, by impairing China’s sovereignty, independence, or territorial or administrative integrity, or which has been concluded by means incompatible with the Paris Pact.

Japan’s reply to the American Government, dated January 16th, 1932, is, both in tone and in substance, almost unique in diplomatic annals. It reads as follows:

"I have the honour to acknowledge receipt of Your Excellency’s note dated January 8th, which has had the most careful attention of this Government.

"The Government of Japan was well aware that the Government of the United States could always be relied on to do everything in their power to support Japan’s efforts to secure the full and complete fulfilment in every detail of the treaties of Washington and the Kellogg Treaty for the outlawry of war. They are glad to receive this additional assurance of the fact.

"As regards the question which your Excellency specifically mentions of the policy of the so-called ‘Open Door’, the Japanese Government, as has so often been stated, regard that policy as a cardinal feature of the politics of the Far East, and only regrets that its effectiveness is so seriously diminished by the unsettled conditions which prevail throughout China. In so far as they can secure it, the policy of the ‘Open Door’ will always be maintained in Manchuria, as in China proper.

"They take note of the statement by the Government of the United States that the latter cannot admit the legality of matters which might impair the treaty rights of the United

1 "The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings inter se which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof."
States or its citizens or which might be brought about by means contrary to the Treaty of August 27th, 1928. It might be the subject of an academic doubt whether in a given case the impropriety of means necessarily and always avoids the ends secured, but, as Japan has no intention of adopting improper means, that question does not practically arise.

"It may be added that the treaties which relate to China must necessarily be applied with due regard to the state of affairs from time to time prevailing in that country, and that the present unsettled and distracted state of China is not what was in the contemplation of the High Contracting Parties at the time of the Treaty of Washington. It was certainly not satisfactory then; but it did not display that disunion and those antagonisms which it does to-day. This cannot affect the binding character of the stipulations of treaties; but it may in material respects modify their application, since they must necessarily be applied with reference to the state of facts as they exist.

"My Government desires further to point out that any replacement which has occurred in the personnel of the administration of Manchuria has been the necessary act of the local population. Even in cases of hostile occupation—which this was not—it is customary for the local officials to remain in the exercise of their functions. In the present case, they for the most part fled or resigned; it was their own behaviour which was calculated to destroy the working of the apparatus of government. The Japanese Government cannot think that the Chinese people, unlike all others, are destitute of the power of self-determination and of organising themselves in order to secure civilised conditions when deserted by the existing officials.

"While it need not be repeated that Japan entertains in Manchuria no territorial aims or ambitions, yet, as your Excellency knows, the welfare and safety of Manchuria and its accessibility for general trade are matters of the deepest interest and of quite extraordinary importance to the Japanese people. That the American Government is always alive to the exigencies of Far-Eastern questions has already been made evident on more than one occasion. At the present juncture, when the very existence of our national policy is involved, it is agreeable to be assured that the American Government is devoting in a friendly spirit such sedulous care to the correct appreciation of the situation."

The Attack on Shanghai and the Bombardment of Nanking.

During the January Council meeting and on the eve of the Disarmament Conference, the Japanese Army and Navy attacked the Chinese city of Shanghai amid circumstances of barbarity and horror too well remembered by the Members of the Council to need recapitulation. This further wanton act of aggression reinforced the idea of the Chinese Government that it was necessary, in addition to Article ii of the Covenant, under which the Council remains seized, to invoke Articles 10 and 15. This was done by the Chinese representative, Dr. W. W. Yen, on January 29th in the following terms:

"Under instructions from my Government, I have the honour hereby to give notice as follows:

"1. A dispute between two Members of the League of Nations—to wit, China and Japan—arising from the aggression of the latter against the territorial and administrative integrity and political independence of the former in violation of the provisions of the Covenant of the League of Nations, exists.

"2. This dispute has not been submitted to arbitration or to judicial settlement in accordance with any of the articles of the Covenant.

"3. The said dispute has now reached a state when it is likely to lead to an immediate rupture between China and Japan.

"4. China hereby invokes the application (not in derogation of the measures taken, or which may be taken by the League in the exercise of its functions under Article ii, but in addition thereto) both of Article 10 and of Article 15 of the Covenant to said dispute and formally submits the said matter to the Council for all appropriate and necessary action under both of said articles.

"5. For this purpose, China begs leave to refer to, and hereby adopts as and for the statement of its case comprising the relevant facts and papers in relation to said matter, all the statements and papers heretofore made and submitted by China in the proceedings of the Council taken in said controversy under Article ii of the Covenant from September 18th, 1931, to the date hereof."

At the meeting of the Council held in the afternoon of January 29th, Dr. W. W. Yen, the Chinese representative, said:

"My Government is sincerely appreciative of the efforts which the Council of the League of Nations, while proceeding since September 18th last under Article ii of the Covenant, has made to bring about a satisfactory adjustment of the pending controversy between China
and Japan. It is with profound disappointment and regret that China is obliged to recognise that these efforts have thus far proved ineffectual. As the victim of persistent external aggression in one of its most violent forms, China can no longer refrain from seeking remedies under other provisions than those of Article 11. The territorial and administrative integrity of the Republic of China has been destroyed, and its political independence gravely threatened, by external aggression. The fact is not and cannot be challenged. The Covenant is explicit and emphatic on the subject. A specific solemn obligation has been imposed and accepted by us all to respect and preserve against external aggression (and even the threat or danger of it) the territorial integrity and political independence of every Member of the League. I beg to quote Article 10:

"The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression, or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled."

China respectfully submits that the obligation specified in the first sentence of Article 10 has become operative beyond any question, and that it remains only for the Council now to advise upon the means by which this obligation shall be fulfilled. As to the means to be employed, the choice is plainly one for the Council to make. It goes without saying that they must be adequate and effective, otherwise the obligation will not be fulfilled.

Japan's disregard of her engagements under the Covenant is flagrant. The use of armed force without submitting the entire matter to arbitration or judicial settlement and without awaiting the outcome of enquiry by the Council is in direct violation, not only of the spirit, but also of the letter of the Covenant.

The time has now come when the Chinese Government must, in justice to her cause, take affirmative steps to strengthen the hands of the League by placing the League in possession of this controversy, not only under Article 11, but also under other articles of the Covenant where her rights and remedies as a Member of the League of Nations are more specifically defined. It was therefore my duty, acting under instructions from my Government, to present this morning the notice which has just been read by the Secretary-General.

The Council immediately appointed a Committee of Enquiry, composed of the representatives at Shanghai of some of its Members, to report on the circumstances and nature of the Japanese attack. Two reports have to date been submitted. The first was preliminary and dealt only with the events at Shanghai from January 18th to January 28th. It substantially corroborated the information which had been furnished by the Chinese representative. The second report, which arrived on February 14th, states, among other things:

"Since February 3rd a state of open war exists, any pretence of a truce being abandoned. Firing continues intermittently, both in the Chapei and Woosung area, with the use of artillery and, on the side of the Japanese, by aerial bombardment. The offensive is entirely in the hands of the Japanese, whose declared object is to capture the Woosung forts and drive all Chinese troops a considerable distance from Shanghai."

The report further refers to "numerous excesses committed by the Japanese marines and reservists, probably actuated by a spirit of revenge. A reign of terror resulted."

Meanwhile, as the British representative reported to the Council on February 2nd, 1932, the British and American Governments, with which the French, Italian and German Governments associated themselves, presented to both Japan and China a formal request:

"(1) That all acts of violence and preparations for hostilities shall be brought to an end;
(2) That in the Shanghai area both sides shall withdraw their troops and that, as further protection to the International Settlement, a neutral zone shall be arranged;
(3) That negotiations shall then be immediately begun to settle outstanding differences in the spirit of the Pact of Paris and the Council resolution of December 10th last."

China forthwith accepted these proposals in toto. Japan rejected them in all their essential features.

On February 12th, 1932, China exercised her right under paragraph 9 of Article 15 of the Covenant of the League of Nations to request that the dispute be referred to the Assembly. The request was as follows:

"With regard to the Sino-Japanese dispute, of which the Council has been seized under Articles 10, 11 and 15 of the Covenant of the League of Nations, I have the honour to observe that, according to Article 15, paragraph 9, of the said Covenant, it is within the competence of the Council to refer the case to the Assembly. At the same time, it is also provided that the dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council."
In view of the time-limit imposed, the Chinese Government is constrained hereby to request that the said dispute be referred to the Assembly. If, however, it should be the pleasure and intention of the Council to refer the said dispute, at its own initiative, to the Assembly or, in virtue of the general powers vested in it, to summon the Assembly for consideration of the dispute, the Chinese Government will then be prepared to withdraw the request on its part.

On February 16th, 1932, the following urgent appeal was addressed to the Government of Japan by the President of the Council in the name of all his colleagues with the exception of the representatives of the Parties to the dispute:

The President of the Council, on behalf of his colleagues, pointed out on January 20th in an appeal to both Parties, ‘good relations between States could only be secured by co-operation and mutual respect, and that no permanent solution could be achieved by force, whether military or merely economic, and that the longer the present situation continued the wider the breach between the two peoples would become and the more difficult the solution would be, with all the disasters that would mean, not only to the two nations directly involved, but to the world in general’.

The Members of the Council other than the Chinese and Japanese representatives feel constrained to-day to make a pressing appeal to the Government of Japan to recognise the very special responsibilities for forbearance and restraint which devolves upon it in the present conflict, in virtue of the position of Japan as a Member of the League of Nations and a permanent Member of its Council.

The situation which has developed in the Far East during the past months will be fully studied by the Commission appointed with the consent of both Parties. But, since the Commission was set up, there have occurred and are still occurring events at, and in the region of Shanghai which have intensified public anxiety, which endanger the lives and interests of the nationals of numerous countries, add to the unexampled difficulties with which the world is faced during the present crisis, and threaten to throw new and serious obstacles in the path of the Disarmament Conference.

The twelve Members of the Council are far from disregarding the grievances advanced by Japan and throughout all these months have given her the full confidence which they owed to an associate of long standing who had ever been punctilious in the fulfilment of all her obligations and duties as a member of the community of nations. They cannot but regret, however, that she has not found it possible to make full use of the methods of peaceful settlement provided in the Covenant, and recall once again the solemn undertaking of the Pact of Paris that the solution of international disputes shall never be sought by other than peaceful means. They cannot but recognise that, from the beginning of the conflict which is taking place on her territory, China has put her case in the hands of the League and agreed to accept its proposals for a peaceful settlement.

The twelve Members of the Council recall the terms of Article 10 of the Covenant, by which all the Members of the League have undertaken to respect and preserve the territorial integrity and existing political independence of all other Members. It is their friendly right to direct attention to this provision, particularly as it appears to them to follow that no infringement of the territorial integrity and no change in the political independence of any Member of the League brought about in disregard of this article ought to be recognised as valid and effectual by the Members of the League of Nations.

Japan has an incalculable responsibility before the public opinion of the world to be just and restrained in her relations with China. She has already acknowledged this responsibility in most solemn terms by becoming one of the signatories to the Nine-Power Treaty of 1922, whereby the contracting Powers expressly agreed to respect the sovereignty, the independence and the territorial and administrative integrity of China. The twelve Members of the Council appeal to Japan’s high sense of honour to recognise the obligations of her special position and of the confidence which the nations have placed in her as a partner in the organisation and maintenance of peace.”

Japan answered this earnest appeal on the part of the twelve Members of the Council with an ultimatum to the Chinese authorities at Shanghai, which was delivered on the very next day at 9.0 p.m. (February 18th), demanding that the Chinese cease hostilities and completely evacuate their first lines by 7.0 a.m. February 20th and the whole area by 5.0 p.m. on the same day to a depth of 20 kilometres beyond the boundaries of the International Settlement. The ultimatum also demanded the permanent dismantling of all fortifications and military works in the evacuated area, including the Woosung Forts, and the cessation of all anti-Japanese manifestations and activities. Failing to comply with these demands, the Japanese commander would take necessary force, whether military or merely economic, and that the longer the present situation continued the wider the breach between the two peoples would become and the more difficult the solution would be, with all the disasters that would mean, not only to the two nations directly involved, but to the world in general’.

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The situation which has developed in the Far East during the past months will be fully studied by the Commission appointed with the consent of both Parties. But, since the Commission was set up, there have occurred and are still occurring events at, and in the region of Shanghai which have intensified public anxiety, which endanger the lives and interests of the nationals of numerous countries, add to the unexampled difficulties with which the world is faced during the present crisis, and threaten to throw new and serious obstacles in the path of the Disarmament Conference.

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We are on the eve of a great battle, wherein some hundred thousand men, equipped with all the modern weapons of war, and on the side of Japan aided by some forty ships of war, will participate; and why? Because it is the will and pleasure of the Japanese