

MINUTES OF THE SECOND (FINANCE) COMMITTEE

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## LIST OF MEMBERS OF THE SECOND COMMITTEE

*Chairman:* Sir Atul CHATTERJEE (India).

*Vice-Chairman:* His Excellency Dr. Jaromír KOPECKÝ (Czechoslovakia).

- Afghanistan:* M. Islam Bek KHOUDOJAR Khan.
- Union of South Africa:* His Excellency Mr. Leif EGELAND.  
Mr. Donald Bell SOLE (Substitute).  
Mr. Bernhardus Gerhardus FOURIE (Substitute).
- Argentine Republic:* Dr. Francisco A. BELLO.
- Australia:* Professor K. H. BAILEY.  
Mr. A. H. BODY (Substitute).
- Belgium:* His Excellency M. Georges KAECKENBEECK.  
M. Roland LEBEAU (Substitute).
- Bolivia:* His Excellency M. Adolfo COSTA DU RELS.  
His Excellency M. Alfredo FLORES (Substitute).
- United Kingdom of Great Britain  
and Northern Ireland:* Mr. Glenvil HALL, M.P.  
The Right Honourable Sir Hartley SHAWCROSS, M.P. (Substitute).  
Sir Charles WEBSTER (Substitute).  
Mr. D. B. PITBLADO (Substitute).
- Canada:* Mr. H. Hume WRONG.  
Mr. Alfred RIVE (Substitute).
- China:* His Excellency Dr. Lone LIANG.  
M. Daniel Ying DAO (Substitute).
- Cuba:* His Excellency M. Guillermo DE BLANCK.  
M. Luis VALDES-ROIG (Substitute).
- Czechoslovakia:* His Excellency Dr. Jaromír KOPECKÝ.
- Denmark:* M. Finn T. B. FRIIS.  
M. Axel SERUP (Substitute).
- Dominican Republic:* His Excellency M. Andres PASTORIZA.
- Ecuador:* M. Alejandro GASTELÚ.
- Egypt:* M. Aly GRITLY.  
M. Sayed H. ISMAIL (Substitute).
- Finland:* His Excellency M. Tapio VOIÓNMAA.  
His Excellency M. Johan HELO (Substitute).
- France:* M. Emile CHARVERIAT.  
M. Jean WATTEAU (Substitute).  
M. Henry HAUCK (Substitute).  
M. Georges PEISSEL (Substitute).
- Greece:* His Excellency M. Thanassis AGHNIDES.  
M. Georges AFENDOULIS (Substitute).

- India*: Sir Atul CHATTERJEE.  
Mr. R. S. MANI (Substitute).  
Mr. W. B. ENGLAND (Substitute).
- Iran*: M. Abol-Hassan HEKIMI.
- Ireland*: Mr. F. T. CREMINS.
- Luxemburg*: M. Jean STURM.  
M. Jean-Pierre KREMER.  
His Excellency M. Antoine FUNCK (Substitute).
- Mexico*: His Excellency M. Luis PADILLA-NERVO.  
M. Julio OCADIZ ARNAUD (Substitute).  
M. Jorge DAESSLE SEGURA (Substitute).
- Netherlands*: Professor J. P. A. FRANÇOIS.  
Madame C. A. KLUYVER (Substitute).
- New Zealand*: Mr. C. A. KNOWLES, C.B.E.  
Mr. G. R. LAKING.
- Norway*: His Excellency M. R. I. B. SKYLSTAD.
- Panama*: M. Alejandro DE ALBA.
- Poland*: M. Jan ROSNER.
- Portugal*: His Excellency Professor Dr. José CAEIRO DA MATTA.  
His Excellency Dr. António DE FARIA (Substitute).  
Dr. João de Deus BATTÁGLIA RAMOS (Substitute).
- Sweden*: M. Sven Hjalmarsson GRAFSTRÖM.  
M. Östén LUNDBORG (Substitute).
- Switzerland*: M. Robert GRIMM.  
M. François PERRÉARD (Substitute).
- Turkey*: M. Nihad ERIM.  
M. Siret HALULU (Substitute).
- Uruguay*: His Excellency M. Julián NOGUEIRA.
- Popular Federative Republic of Yugoslavia*: His Excellency M. Mato JAKŠIĆ.
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- Austria*: Dr. Johannes SCHWARZENBERG (Observer).

## FIRST MEETING

Monday, April 8th, 1946, at 4 p.m.

Chairman: Mr. Hume WRONG (Canada).

1. — **CHAIRMANSHIP OF THE FIRST MEETING**

*The Committee agreed that Mr. Hume Wrong (Canada), one of the Vice-Presidents of the Assembly, should take the Chair at its first meeting in the absence of the Chairman, Sir Atul Chatterjee, who had been unable to reach Geneva in time to do so.*

2. — **PUBLICITY OF THE MEETINGS**

*It was agreed that the Committee should meet in public, unless otherwise decided.*

3. — **EXAMINATION OF THE GENERAL SUMMARISED REPORT OF THE SUPERVISORY COMMISSION ON ITS WORK DURING THE PERIOD OF EMERGENCY, 1940-1946**<sup>1</sup>

(a) STATEMENT BY THE ACTING SECRETARY-GENERAL

The Chairman said that, in accordance with the long-established tradition of the Finance Committee of the Assembly, he proposed to ask first the Acting Secretary-General and then the Chairman of the Supervisory Commission to make statements on the annual reports of the Commission and those of the Special Committee on Contributions for the years 1940 to 1945, and on the various questions raised in them.

**The Acting Secretary-General.** — I think on this occasion I can confine myself to a few points, as you will find that the Chairman of the Supervisory Commission will, in his statement, cover all the major questions, dealing with the reports of the Commission and the Contributions Committee and the policy that has been followed. There is one point in my *Report on the Work of the League during the War*<sup>2</sup> to which I would draw attention: it relates to the League Budget and the Staff of the Secretariat.

In 1939, the Secretariat expenditure was 12.5 million Swiss francs. In 1940, we had to bring it down to 5.5 millions. In 1941, it came down to 2.7 millions and last year it was 2.2 millions.

Taking this expenditure and our income for all these six years, the Secretariat has spent 81,000 Swiss francs less than the share of the income it actually received.

These figures speak for themselves and indicate what I have shown in my report—that we have indeed "cut our coat according to our cloth". There have been deficits during these years, but they related to the Staff Pensions Fund, where it was necessary to pay 100% of the credit in the Budget to the Pensions Fund, even when the contributions received represented only about two-thirds of that credit. These deficits have in

part been met by making provision for their restoration in subsequent budgets, but the Working Capital Fund, from which they had to be met, had in cash at the end of last year less than 60% of its nominal value.

The Secretariat Budget for 1946 is 4.4 million Swiss francs. This is considerably higher than last year, but 1.27 millions relate to a special credit to meet contractual liabilities resulting from the winding up of the League, and we have also had to increase the provision for the Assembly. On page 6 of the Budget<sup>1</sup> you will see where those increases have occurred. The provision for General Services and Salaries is actually less than for 1945.

You will recall that in my telegram to States Members of September 20th, 1945, I indicated that as the date of the transfer of certain technical services to the United Nations was uncertain, the 1946 Budget would provide for the maintenance of these services throughout the full year and that the contributing States would be credited with any unused part of their contributions appropriated for those services when transferred. To-day, I am not much nearer certainty with regard to the date of the assumption of these services by the United Nations, but we expect that it will take place in a few months. As regards the staff employed on what we call the technical work, this staff will be discharged. It has been arranged that, if the United Nations desires to continue their employment, it will enter into new engagements with each individual official and there will therefore be no question of the formal transfer of staff.

As regards income for this year, the Treasurer has informed me that we have received contributions up to 22% of the expenditure budget. This is already a much higher percentage than is usually received at this early date in the year, and it is due in part to the payment of arrears. The Special Committee on Contributions has been authorised to make arrangements for the liquidation of the debts of States in arrear, and you will see from its report<sup>2</sup> that progress has already been made in that direction.

It is most important that these arrears should be cleared, both in the interest of the League and in the interest of the States concerned, before the final distribution of the League's assets.

About the transfer of land, buildings and equipment to the United Nations—which will be one of the questions to be decided by the Committee and by the Assembly—you will see in the Report of the Supervisory Commission on this point<sup>3</sup> a schedule of the value of this property. That value was taken at cost price; but the property which will be transferred includes many

<sup>1</sup> Document C.102.M.102.1945.X.

<sup>2</sup> Document C.10.M.10.1946.X (Annex 11, page 195).

<sup>3</sup> Document A.8.1946.X (Annex 17.I, page 217).

<sup>1</sup> Document A.5.1946.X (Annex 4, page 149).

<sup>2</sup> Document A.6.1946.

gifts, as well as equipment bought from donations, for which no figure has been placed in our estimated cost. It would seem appropriate to recall that no less than twenty-two Governments, as well as the Woodrow Wilson Foundation and various private donors, have presented works of art and craftsmanship to these buildings. These gifts—it is proposed by the Supervisory Commission—should be transferred as gifts from the League to the United Nations.

May I venture another statement: there is as yet no building in the world so well adapted and equipped for the holding of international conferences as this. It has been maintained in perfect readiness for use and planned to secure the greatest possible convenience, efficiency and economy for an international organisation.

In my report to the Assembly on the work of the League during the war, I have given a summary of the measures taken in regard to the staff since the outbreak of the war. I would only remind the Committee of the heavy retrenchments that had to be made at that time. Before the war, there were 650 officials in service whose annual salaries amounted to eight million francs. By January 1st, 1943, they had fallen to 100, whose annual salaries were less than 1½ million francs. These retrenchments entailed hardships for many devoted and competent officials who were obliged prematurely to leave the service of the League. It was a painful duty for me to be forced, through pressure of circumstances, to apply these measures.

While more than 500 officials accepted the position so created, there were, as I have informed the Assembly by a special document,<sup>1</sup> twelve officials with life contracts who lodged with the Administrative Tribunal a complaint concerning the conditions under which they were discharged. It was a question of the period of notice for the termination of their contracts which was changed by the Assembly Resolution of December 14th, 1939, from six months to one month. The Administrative Tribunal has considered that this resolution was wrongly applied to these officials and has decided that they should receive full payment. The Assembly will have to take a decision on this point.

Since 1943 the technical activities of the League have been regularly increasing, and some former officials have been reappointed, so that the staff before the Assembly was due to meet was 130.

The impending winding-up of the League, however, will entail the termination of the contracts of all the present staff and, in accordance with the opinion of the Supervisory Commission, I have already informed all officials that their contracts will come to an end on July 31st, 1946, it being understood that short-term appointments may then be made in order to meet the requirements of the service after that date.

This procedure will enable all questions of pensions and indemnities to be concluded at an early date and will enable the final position of the Pensions Fund, and the calls to be made on other funds during the process of liquidation, to be ascertained before the end of the year.

On this occasion of the last meeting of the Assembly, I would like to take an opportunity—and, indeed, I feel it my duty—to express my warmest thanks to the officials. It is due to them that I have been able to carry out the duties entrusted to me throughout the war and that the international work entrusted to the League never broke down during those dark years. I hope that these faithful servants of the League will be given the opportunity to continue their

international careers and that the United Nations will be able to take advantage of their special knowledge and their experience.

There are a few upon whom the heavier responsibilities and burdens have fallen—notably the Treasurer, Mr. Jacklin—and I am happy to take another opportunity to declare publicly that it would not have been possible to keep this organisation alive as a working machine without him.

There was Mr. Loveday, who headed the mission sent to Princeton and during the war years was responsible for the notable accomplishments of that mission. His reputation is well earned and I am sorry his health led to his resignation a few months ago.

M. Stencek was a pillar of strength to me in administrative procedure when in 1940 I had to pull together into working shape a Secretariat that was so drastically reduced as to be very much disorganised.

There are many others—M. Vigier, for example, whose judgment and character remained poised and unaffected by the tragic and discouraging situation we had to face. I cannot mention all by name but I would like to repeat my personal gratitude to them, to those of all ranks, and thus echo, I am sure, the opinion of the States Members whom they were serving.

Co-operation between the League organisations has been close and entirely satisfactory. Mr. Phelan has cabled from Mexico, where a conference of the International Labour Organisation is in progress, his deep regret at being unable to be present, but he is represented here by the Assistant Director and the Legal Adviser. M. López-Oliván has shared our fortunes in Geneva and until a decision elsewhere decided the fate of the Permanent Court of International Justice did all that was necessary to keep the centre of its administration in existence.

Finally, you will be aware from the reports of the Supervisory Commission what its tasks and responsibility have been. Such international duties are heavier and more difficult in times of war when the machine which in normal times runs smoothly has to be constantly adjusted to new tasks and special problems. The control and supervision of the Commission covered details as well as broad policy, financial and administrative, and in all our difficulties we received from the Commission wise and sympathetic guidance.

In the unusual circumstances of the last meeting of this Committee, may I be forgiven for expressing my admiration for the public-spirited and disinterested service so constantly rendered to the League by the Commission and more particularly by the Chairman, M. Hambro, and the Rapporteur, Sir Cecil Kisch.

(b) STATEMENT BY THE CHAIRMAN OF  
THE SUPERVISORY COMMISSION

**M. Hambro**, Chairman of the Supervisory Commission. — It has been customary for the Chairman of the Supervisory Commission to review the activities and the recommendations of the Commission as an introduction to the work of the Finance Committee. I feel a little reluctant to do it, because you will have among you for the whole duration of your session our Rapporteur, Sir Cecil Kisch, who, better than I can, will be able to answer any questions and give you all

<sup>1</sup> Document A.16.1946 (Annex 23, page 245).

information, and you have at hand the Treasurer of the League, with a fuller knowledge and a greater authority than anybody else in all matters relating to our financial dispositions. The Acting Secretary-General, in his otherwise very good and touching speech, embarrassed me a little by violating one of the sacred traditions of this Committee and a resolution of which I was the author many years ago, which stated that on the Finance Committee all compliments should be suppressed. But after all these years, it will naturally be required that the Chairman should give an account to this Committee, as the time has come at last when the Supervisory Commission is able to hand back to the Assembly of the League the special powers which it has exercised since September 2nd, 1939. On that day, the President of the Assembly declared a state of emergency to have arisen which necessitated the bringing into force of a resolution that had been adopted by the Assembly in the previous year with just such a circumstance in view.

The resolution is reproduced in the Commission's reports which have been distributed to you, but, as the Commission has now to render account to the Assembly of its stewardship, it will not be out of place for me to quote once again the words which have provided the basis of all our work in the past six and a-half years.

On September 30th, 1938, the Assembly decided that—<sup>1</sup>

"Until the next ordinary session of the Assembly, the Secretary-General and, as regards the International Labour Organisation, the Director of the International Labour Office, acting with the approval of the Supervisory Commission, which may take all decisions by a majority vote, shall have power in their discretion to take any exceptional administrative or financial measures or decisions which appear necessary (including the amendment of administrative or financial regulations) and such measures and decisions shall have the same force and effect as if they had been taken by the Assembly."

This resolution was confirmed and prolonged by the Assembly which met in December 1939.<sup>2</sup> Indeed, the Assembly then added to the special powers already conferred on the Commission those normally exercised by the Council under the League's Financial Regulations.

Those of you who were not present at the Assembly either in 1938 or 1939 and had therefore no chance of knowing at first hand the circumstances then prevailing may be surprised to learn that there was no very precise text, nothing even in the minutes of the Assembly or the Fourth Committee's debates, on which the Commission could rely for guidance as to the way in which we were expected to exercise our special powers or even as to the objectives which we were expected to hold in view. Looking through the records of the two sessions of the Assembly, all that I can find on the subject is a brief reference by the Chairman of the Fourth Committee in 1938, Count Carton de Wiart, to the desire of certain delegates to see some precautionary measures taken regarding the League's financial and administrative work in the interval before the next Assembly's meeting. And the minutes of the Assembly are equally silent on a point which, as the members of the Commission soon came to

see, was of paramount importance to us in the performance of our task. For we had been entrusted with the discharge of powers that belonged to two sovereign bodies—the Assembly and the Council of the League—without our having been consulted first of all, and it was only because of the urgency of the situation that we accepted them without more ado.

In the circumstances obtaining in the second half of 1940 and still more in the circumstances of 1941, it was therefore essential for us as a commission to try to arrive at a definition of our task. The Assembly had entrusted us with power to take in its name any exceptional administrative or financial measures which might appear necessary. But it did not say necessary to what end or with what object in view.

This, then, was our first difficulty, and the conclusion at which, after much reflection and consultation, we arrived is given in paragraph 8 on page 2 of our report for 1941—document C.53.M.50.1941.X. It was, we considered, the duty of the Commission to preserve intact the structure of the League of Nations and to provide for the continued existence of each of its different institutions, even if financial exigencies were to compel a contraction in the scale of their operations. And why did we reach this conclusion? Because, as the same report states, we agreed that it was of the greatest importance for the future to keep up the framework of the League and not to lose the accumulated experience of more than twenty years of international co-operation and administration. We believed that the ideals for which the League had been created were bound to survive the catastrophe of war, even of a war on a wider and more disastrous scale than that of 1914-1918, and that our duty was to ensure the continuance of all those activities of the League which will form as essential a part of the programme of the United Nations as of the old organisation now about to disappear.

In our report for 1942—document C.L.11.1942.X, Annex II—we were able to record with satisfaction the confirmation of our policy by the Atlantic Charter. The Charter laid down the principles which should govern the relations of States in the realisation of economic and social progress, and thus seemed to justify our decision to provide for the continuance of the League's non-political work and of the organs in charge of that work. For, although at that time it was of course impossible to foresee what form the post-war organisation would take, we never doubted that the machinery set up by the League, and the work of its special and technical organisations, would prove invaluable to international co-operation after the war. It was one of the authors of the Atlantic Charter, Winston Churchill, who remarked that, in the tasks of future co-operation, "we must take as our foundation the lofty conception of freedom, law and morality which was the spirit of the League".

With this striking recognition of the value of the League's services to mankind, we felt encouraged to continue on the lines which we had adopted in 1941, and on page 2 of the report for 1943 (document C.23.M.1943.X), you will find a rather fuller definition of our aims than is contained in our previous reports; and it will perhaps be convenient if I read out the

<sup>1</sup> See *Official Journal*, Special Supplement No 183, pages 97 and 140.

<sup>2</sup> See *Records of the Twentieth Ordinary Session of the Assembly*, December 11th to 14th, 1939, *Plenary Meetings*, pages 21 and 45.

six short paragraphs in which they are summed up:

1. To "preserve intact the structure of the League of Nations and to provide for the continued existence of each of its different institutions, even if financial exigencies compel a contraction in the scale of operations".

2. To provide the necessary credits; to promote the collection of contributions; to enforce economies in administration; and generally to watch developments affecting the League.

3. To ensure the continuance of essential technical work—the social, economic and health work of the League, the control of opium and other narcotic drugs and the refugee organisation—as well as to maintain the various offices of the League concerned with these technical duties; to ensure the regular functioning of the International Labour Organisation; and the maintenance in being of the Permanent Court of International Justice.

4. To ensure the continued and regular collection of information, records and reports, so that the latest material should be available to Member States in the several offices of the League.

5. To provide for study and the preparation of work in connection with post-war reconstruction.

6. To ensure that the League faithfully meets each and every one of its financial obligations.

There is, I imagine, no need for me to deal in detail with any of the subjects in the paragraphs which I have just read out except those in No. 2: "To provide the necessary credits; to promote the collection of contributions; to enforce economies in administration; and generally to watch developments affecting the League".

The other questions are fully covered by the report of the Acting Secretary-General, which will be discussed in plenary session of the Assembly.

I should like first, however, to refer briefly to certain constitutional decisions which we felt it imperative to take in order to make sure that the conduct of our business might not be seriously hampered, or perhaps even suspended, by the hazards of the war.

On page 4 of document A.5.1946.X,<sup>1</sup> you will see lists of the members of the Commission in 1940 and at the present date, and a third list of persons who served on the Commission at different periods during the war. As you will observe, the membership is now ten, although the Financial Regulations of the League stipulate for only seven. Two, however, of the members of the Commission in 1940 were unable, owing to the occupation of their countries, to give effective service. Accordingly, to ensure that the attendance at meetings might be sufficiently numerous to give full authority to the decisions taken, we co-opted, as early as our meeting in Portugal in September 1940, an additional member, M. Costa du Rels, the President of the Council. This practice we continued and somewhat extended in subsequent years, as you will see from our annual reports for 1941 and 1942 and for 1944 (document C.27.M.27.1944.X).

<sup>1</sup> See Annex 4, page 152.

I should like here in passing to pay a tribute to the memory of two members of the Commission who died during the war—Dr. Colijn, of the Netherlands, who for so many years took such an active part in the League's work, and Sir Frederick Phillips, of the United Kingdom, who for years was a member of the Contributions Committee and of the Supervisory Commission. We owe them a debt of gratitude for eminent and devoted services in one capacity or another.

You will allow me to say that for those of us who co-operated with them during those years they became not only colleagues but also personal friends. Some of us will never forget the journey we had in the early days of the war when we went by car with Dr. Colijn from The Hague to Geneva for the last meeting of the Supervisory Commission in Geneva before the end of the war. Nor shall we forget the last meeting we had at The Hague in February 1940. At that meeting we constituted the Central Committee, which had been set up by a unanimous Assembly Resolution of 1939, and as Chairman of the Central Committee we elected Dr. Colijn. An extensive programme of work was drawn up, but owing to the events of the war, it never materialised. I think, however, that we may be allowed to say that without the Central Committee the Economic and Social Council of the United Nations would never have been called into existence, because it is built on exactly the lines drawn up in the report which was adopted by the League in 1939.

During the earlier years of the war, Sir Frederick Phillips always came when he was asked to come. He crossed the Atlantic a number of times and when he died as a result of overwork all his friends and colleagues felt it as a personal loss.

Another resolution which we took in 1940, with the object of preventing delay in the dispatch of business due to the war, was one providing that valid decisions might be reached by letter or telegram. That some such arrangement was indispensable was made abundantly clear at our meeting in Estoril, which neither the Acting Secretary-General nor the Treasurer, nor I, myself, as Chairman, was able to attend, even though the two former gentlemen did manage to get through the unoccupied zone of France and reach the Spanish frontier. I was sitting in New York. I had booked my passage by plane to Lisbon but for twelve days no planes left the United States because of magnetic storms and disturbances. Finally, it was arranged that I could participate by telephone. We could only use the telephone from New York to Lisbon during a few hours of the day, because for the rest of the day and night communications to Lisbon went by way of Rome or Berlin. By telephonic operations, the Chairman was able to keep in touch every day with the Rapporteur and Vice-Chairman, Sir Cecil Kisch, who had the responsibility for conducting the business transacted in Lisbon, which was of fundamental importance for the League.

As we look back on those years, I should like you all to realise the difficulties of the administrations of the League, and particularly of the Treasurer, who had to spread his activity over a number of continents. We had the seat of the League at Geneva. We had to move the Treasury to London. The International Labour Office was transferred to Montreal in Canada. The Opium Supervisory Body and the Permanent Central Opium Board were transferred to Washington, D.C. The Economic, Financial and

Transit Department of the Secretariat had moved to Princeton, New Jersey. And we had at all times to make sure of a quorum of the Supervisory Commission either in England or in America. The Treasurer and the members of the Commission had often to travel by air, and they saw a lot of places in which they never thought they would be interested. We have gone the northern way via Iceland, Greenland and Labrador. We have been a number of times to Newfoundland. We have had to cross to Bermuda, Porto Rico and Trinidad. We have been to Natal, Belem, Dakar, Lisbon, Foynes. At no time did the Treasurer or any of the members refuse to take any of the risks; sometimes they went by air and sometimes by sea, but always they arrived safely, and we were able to conduct our business.

You will have also observed scattered throughout our annual reports references to decisions taken varying or suspending one article or another of the Financial Regulations. Thus the report for 1940 mentions the authority conferred upon the Secretary-General to approve, upon the Treasurer's recommendation and subject to the approval of the Chairman of the Supervisory Commission, the withdrawal of moneys from the Guarantee Fund and other funds not normally available for meeting current expenditure, in case the contributions received from States Members should prove inadequate and, of course, provided the Working Capital Fund had first been exhausted.

Again, our reports for 1942, 1943, 1944 contain a mention of the action we took to vary Article 38 (a) of the Financial Regulations relating to repayments to the Working Capital Fund. In order to lighten the burden of contributions as much as possible, a burden which I may observe in passing was mainly borne during the most critical years of the war by a small group of States, we decided to spread the repayment of withdrawals from the Fund over a period of years, from 1942 to 1945. In this way we were able to make good a great part of the deficit in the Fund without making undue calls upon the good-will of Members.

Other temporary modifications of the Financial Regulations which were necessitated by circumstances concerned Articles 21 (5), 22 and 33 (b). As they are only of minor significance, I do not propose to say more about them here. Those interested will find all the necessary information on page 16<sup>1</sup> of the report for 1944—document C.27.M.27.1944.X.

There is, however, one other constitutional matter on which I ought perhaps to say a few words. As you know, the 1939 Assembly invested the Supervisory Commission with the financial and administrative powers of the League Council. The Assembly's resolution, however, limited this measure to the year 1940. At our Estoril meeting in September that year, we felt that, in the circumstances of the time, the date of the Council's next meeting must be regarded as indefinitely postponed. It was therefore necessary for us to extend the validity of the Assembly's resolution and we agreed to a decision maintaining the authority which had been conferred on us in December 1939 to exercise the powers in question "unless and until the Assembly should decide otherwise". You will find the relevant passage on page 11 of document C.152.M.139.1940.X. It will be for the present Assembly to decide by whom these powers should be exercised in future. If you decide to set up, as has been suggested, a special body for the liquidation of the League and its assets, you will probably wish to transfer these powers to it.

<sup>1</sup> Page 14 in the reprinted English edition.

During the war years, the non-political activities of the League have been maintained, although on a reduced scale. It will save much time if you would take a look at the table showing the estimates as voted and the actual expenditure in parallel columns in Annex A to our General Summarised Report, pages 12 and 13 of document A.5.1946.X.<sup>1</sup> This table shows that, from a vote of 32,200,000 Swiss francs and an actual expenditure of 28,190,000 francs in 1939, the Budget of the League was cut to a vote of 9,650,000 francs and an actual expenditure of 7,800,000 francs in 1942, with slight increases again in 1943 and 1944.

I should like here to mention what you will find more fully in the Acting Secretary-General's Report. Meetings of great importance have been going on. The Fiscal Committee of the League met twice in Mexico during the war and had very successful sessions, resulting in a number of conventions being adopted by countries in South America. The Financial and Economic Committees of the League met in joint session at Princeton, with delegations from twenty-two countries, and the programme drafted there served as a basis for much of the work done to prepare the work of the United Nations and was also useful to U.N.R.R.A. Meetings of the Opium Supervisory Body and the Permanent Central Opium Board have been held in London. We have even succeeded in standardising penicillin and in carrying on the work of international standardisation not only of sera but also of vitamins. In every field where it was humanly possible, the Acting Secretary-General and his officers have continued to carry out the work entrusted to them.

The reduction in expenditure was achieved despite the fact that there were certain items, among them the large annual appropriation to the Staff Pensions Fund, in which little or no reduction could be made. As appears from the tables which you have before you, the annual amount voted for the Staff Pensions Fund between 1940 and 1945 is round about 1½ million Swiss francs. In order to enable the League to comply with its obligations towards the Fund, these credits were paid to the Fund in full each year, notwithstanding the shortfall in the contributions received from States Members. But the punctual discharge of this obligation involved for the League Budgets the deficits which you will find recorded in the table on page 6 of the same document. As you will see, for the six years in question, these make up a total of 2,730,000 francs.

But there is another point in connection with the Staff Pensions Fund to which I should like to invite your attention for a moment. As you will remember, the Assembly in 1939 approved certain measures which the Supervisory Commission had proposed for a considerable retrenchment to meet the exigencies of the emergency.<sup>2</sup> A great number of League officials were called up for national duty. Others wanted to go into the armed forces of their home countries; at the same time, it was necessary to meet the probable financial consequences of a world crisis. So the Staff Regulations were altered to make it possible for functionaries to leave without the six months' notice and for the League to terminate contracts. Among those affected were many young officials whose career was thus being interrupted or terminated and who would in the ordinary course have continued to serve until they were 60 years

<sup>1</sup> See Annex 4, page 159.

<sup>2</sup> See *Records of the Twentieth Ordinary Session of the Assembly, December 11th to 14th, 1939, Plenary Meetings*, pages 21 and 45.

of age. In 1940, we were apprised of the effect of these measures on the Pensions Fund. The Fund was that year obliged to face a call for some 16 million francs, a possibility which, naturally, could not have been foreseen at any time before the emergency actually arose. The early retirements and the consequent heavy inroads on the Fund seriously affected its solvency, and it was decided to transfer the whole of the Reserve Fund, amounting to over 11 million francs, to the Pensions and Provident Funds.

Another consequence of the decision which we had to face during the four years 1940 to 1943 was that of making provision in the Budget each year for the payment of the indemnities to officials who left the service on the terms laid down by the resolution of the 1939 Assembly. Under that resolution, these payments were to be spread over a period of four years. The total number of officials involved was 344, and the total amount arising out of this commitment of the Assembly was 3,400,000 francs. Of this sum, one million had to be provided in 1940 and a second million in 1941.

From 1941, too, we had to make provision for the gradual reimbursement of the Working Capital Fund, upon which the Treasurer was forced to make heavy calls. Moreover, from 1942 onwards, we had to make provision not only for the maintenance of old work, but also for new work, mainly connected with post-war reconstruction, on the part both of the Secretariat and more especially of the International Labour Office.

The most drastic cut in expenditure was, naturally, that made in the Budget of the Secretariat, which was reduced in 1942 to just over 21.2% of the 1939 Budget, as against 29.9% for the League Budget as a whole.

I should not, however, like you to suppose that the apparently favourable difference, which you will have remarked in the table I have just mentioned, between the amounts voted and the amounts actually spent represented an effective surplus. To imagine anything of the kind would be to ignore the true and sad facts of the position, for which I would ask you to turn to the table on page 6 of the same paper. From this table, you will see that, except for a small surplus of 370,000 francs in 1944, there has been a heavy deficit in each of the war years from 1940 onwards. The reasons for these deficits are probably known to most of you, but I shall have a few words to say on the subject when I come to deal with the work of the Contributions Committee.

For the moment I should like to confine my remarks to saying that, from the beginning of the emergency, the Commission was impressed with the necessity for the League organisations to cut their coat according to their cloth, if I may use a homely English saying. In other words, means had to be found to make sure that expenditure would be commensurate not with the amount voted each year, but so far as possible with income actually received. In this task we had the loyal and unwavering support of the Acting Secretary-General, the Acting Director of the International Labour Office and the Treasurer to whose co-operation and spirit of understanding

the Members of the League owe a heavy debt of gratitude. The measure of the success we attained in limiting expenditure to income over the war years is shown in the last column of the table before you.

These reductions were obtained mainly by solid cuts in the salaries budgets of the different organisations. It was a task of great perplexity for the Acting Secretary-General and the Acting Director of the International Labour Office to decide just how these heavy economies could be made without excessive interference with all those activities which, for the reasons I have already stated, we had decided to maintain in the interest of the future work of international co-operation.

So far as the Secretariat is concerned, the task may have been simplified by the obvious fact that its political activities would remain in abeyance until the end of the war. But the Secretariat, too, had a heavy burden to carry, not only for the maintenance of its non-political work, which had always represented by far the greater part of its expenditure, and the discharge of duties arising out of Conventions and Treaties, but also because its Budget has to meet certain special expenses, such as the common Treasury service for the collection of income and its distribution to the various League organisations, the Library—part of whose expenses are, however, borne by the Rockefeller Endowment Fund—and the heavy cost of the maintenance of the building in which we are now meeting.

If you will turn to our report for 1944—document C.27.M.27.1944.X—you will find in Annex D a most informative statement by the Acting Secretary-General on the expenditure of the Secretariat in the years 1941 to 1944. The tables given there are the most striking evidence possible of the efforts at compression made by the Acting Secretary-General and his colleagues. From the table in paragraph 2, you will see that, whereas in 1944 the League Budget as a whole still amounted to 31.25% of the 1939 Budget, that of the Secretariat had been cut to 19.3%. And, if you will look next at the last table in paragraph 3, you will notice that the Secretariat's actual expenditure in 1942 and 1943 fell to round about 19.6% of expenditure in 1939.

The most impressive testimony to the economies effected by the Secretariat is perhaps that contained in the tables in paragraph 5 of the same Annex. These show the reduction in salaries expenditure—40.8% in 1940 and 17.4% in 1942 of the 1939 figures—and in the number of officials remaining in the Secretariat's employ, the figure for 1943 being only 19.3% of that for 1940 and as low as 15.1% of that for 1939.

In the subsequent passages of his memorandum, to which I should like to call your particular attention, Mr. Lester describes the difficulties which these drastic compressions caused in the maintenance of the Secretariat's non-political activities. He shows that, in certain cases—the work of the Health Department, for instance—they resulted in real detriment to a vital service and then goes on to say how, by a redistribution of the continuing burden among the remaining members of the staff, these inconveniences were largely, though not wholly, overcome and how the Secretariat was able in the later years of the war even to take up new tasks, especially in connection with post-war reconstruction.

And here it is perhaps necessary that I should say a word about the generous assistance given by such institutions as the Institute for Advanced Study in Princeton, New Jersey, Princeton University, and the Rockefeller Institution for Medical Research to the economic and financial work of the Secretariat.

I need not describe the circumstances in which, in response to an offer of hospitality from those institutions, the Economic and Financial Department, under the direction of Mr. Loveday, was transferred to the friendly soil of the United States and enabled not only to continue but even to develop its work and to assume fresh tasks. Without this timely help, it would hardly have been possible to maintain, still less to add to, that impressive series of publications on economic and financial questions which have been such an invaluable adjunct to workers both in official and in unofficial circles.

Throughout our reports from 1941 onwards, you will find passages recording our grateful acceptance of generous grants from the Rockefeller Foundation and other American bodies for the work of the Economic and Financial Department, the Health Department, the Permanent Central Opium Board and other League organisations.

The economies effected by the International Labour Office were only a very little less impressive than those of the Secretariat. As the Assistant Director of the Office is here in person to describe the way in which, despite heavy cuts in expenditure and substantial reductions of staff, the Office, the greater part of which was transferred to Montreal in 1940, has been able to maintain its essential work and to add new and important tasks to its programme, there is no need for me to go into detail on this subject. If you will look once again at the tables on pages 12 and 13 of the General Summarised Report—document A.5.1946.X—you will see how the Budget of the International Labour Organisation was cut from nearly 8½ million Swiss francs in 1939 to 6,350,000 in 1940 and reached its lowest figure, just over 3 millions, in 1942. The corresponding figures for expenditure are 8,300,000 francs in 1939, 4,350,000 in 1940 and less than 3 millions in 1942. This is surely an effort worthy of all praise. If in the Budgets for 1945 and 1946 the Commission has felt constrained to agree to substantial increases for the International Labour Organisation, making a credit of 8½ millions for 1945 and slightly more for 1946, that is solely due to our desire to avoid hampering the revival of the I.L.O.'s normal activity, since the Governments appear to have agreed that such a revival was of vital importance in the tasks of reconstruction.

As regards the Permanent Court of International Justice, I would draw your attention to Chapter III on page 9 of our report for 1945—document C.118.M.118.1945.X. Section 2 describes the decision at which the Commission arrived in 1940 that, having regard to the remote probability of the Court's being able to sit, it would be appropriate to cut the credit normally voted for the Judges' salaries. The paragraphs marked capital A, B, and C explain how this matter was finally regulated this year in agreement with the Judges.

I take this opportunity of thanking the Registrar on behalf of the Supervisory Commission for his spirit of good understanding and his

untiring patience with our sometimes rather blunt demands for drastic cuts which he has always borne with equanimity and good grace.

The figures for the Budget votes and the actual expenditure of the Court in the years 1939 to 1945 are given in the tables in the Annex to our General Summarised Report, and there is perhaps no need for me to say more on the subject. I shall, however, have something to say on other matters affecting the finances of the Court when we come to deal with the big question of the action to be taken for its dissolution, more especially on the subject of the Judges' Pensions Fund.

Of the Budgets and expenditure during the war years of the other special organisations of the League—the Permanent Central Opium Board and the Office of the High Commissioner for Refugees—there is no need for me to speak, except to say that we effected such small economies as were possible having regard to the comparatively insignificant amounts involved. The figures will be found in the tables in Annex A to document A.5.1946.X.

As regards the special funds, the position is set out clearly and succinctly in the table on page 9 of the document I have just mentioned. And, to what is said in the "Remarks" column of the table, I should like to add the following observations on certain points.

First, the Working Capital Fund. The table shows that the amount in this Fund, which was 4,340,000 Swiss francs in 1939, was 3,870,000 at the end of 1945. The position on March 31st this year was 2,479,000 francs. But a large sum which will be recovered in 1946 was advanced from the Fund to pay the agreed portion of the arrear salaries of the Judges of the Court. You will remember that the Working Capital Fund was instituted with the object of enabling the League organisations to tide over the periods, normally at the beginning of the League's budgetary year, which starts on January 1st, when cash is short owing to the fact that the contributions of most States Members are not received until the year is a few months old. It is restored by contributions from States through the annual budgets and remains the property of the subscribers. Thus, a State which has left the League is entitled to reimbursement of the amount of its contributions to the Fund.

Our General Summarised Report—document A.5.1946.X—contains on pages 7 and 8 a succinct statement of the position on December 31st last year, from which you will glean all the essential facts as well as the Commission's views as to the distribution of the cash in the Fund among the States Members.

I need not detain you with a detailed description of the position of the other special funds mentioned in the table on page 9 of our General Summarised Report, but I would point out that the difference between the total amounts of the funds belonging to the League at the end of 1939 and 1945 is almost exactly equal to the amount of the League Reserve fund, which, as I have already said, was made over by the Assembly to cover the obligations of the Staff Pensions Fund.

Those of you who are interested in the history of the League Wireless Station and its purchase by Radio-Suisse will find all the details in Section J on page 8 of our report for 1941—document C.53.M.50.1941.X—and Section L on page 8 and

Annex E on page 15 of the report for 1942—document C.L.II.1942.X. Annex II.

As regards the Building Fund, you will find in Section P on page 12 of the report for 1943—document C.23.M.23.1943.X—a succinct account of the claim made by the contractors, the *Entreprise du Palais des Nations*, against the League and of the settlement finally reached after seven years' negotiations in 1942.

I have tried to explain the many financial problems with which we have been faced and I have gone into some of the constitutional difficulties we have had to meet. You will understand that, without the intimate co-operation of the Acting Secretary-General, the Acting Director of the International Labour Office, the Registrar of the Court and the Treasurer of the League, it would have been impossible for any Supervisory Commission to discharge the duties laid upon it by the Assembly and the Council. The very text of the Assembly resolution which I quoted in my opening remarks presupposed a full agreement between the Secretary-General, the Director of the International Labour Office and the Commission in any action taken. And I am glad to say that, during these years, no friction has ever been allowed to disturb the co-operation between the competent heads of the Administration and the Supervisory Commission. We all fully realised that, without complete agreement on every issue, the thin ice might break on which we were trying to skate. Much was demanded of Mr. Lester and Mr. Phelan, both initiative and resignation. Mr. Lester took over the functions of Secretary-General at a time of great confusion in the affairs of the Secretariat. How he took charge of the ship and enabled it to weather the storm is described throughout the pages of our annual reports. During the most difficult years he was obliged to stay in Geneva. We could communicate with him only by wire and sometimes by letter. And it is thanks to his loyalty and devotion and the mutual trust which inspired our work that no misunderstandings were allowed to disturb the work. He was a lonely man, exposed to many dangers and difficulties, and I pay the highest tribute to his spirit of loyalty and helpfulness.

Mr. Phelan's task has been hardly easier than that of Mr. Lester, but in spite of ill-health he has displayed a steady devotion to the interests of the International Labour Organisation and an admirable comprehension of the too-often-unwelcome activities of the Supervisory Commission. With untiring energy and unswerving vision, he has continued to develop the institution of which he had charge, winning for it the ardent support of Governments, employers and labour. I must also express our gratitude to the two chairmen of his Governing Body and the representatives of the Employers' and Labour Groups, who have taken a helpful and active part in our deliberations.

And, in this Finance Committee, I must pay the highest tribute to the unfailing loyalty, the resourcefulness and sagacity of the Treasurer of the League, Mr. Seymour Jacklin. I fully associate myself with the words spoken by Mr. Lester and I can say that without his untiring competence, his authority with Governments and his far-seeing wisdom in all our financial problems, the difficulties of the Supervisory Commission would have been immeasurably greater.

Having said these words of more than well-deserved praise of the men who did the work, I have to pass to a chapter that is less agreeable, on the question of contributions. I am treading on awkward ground and for the moment I shall limit myself to a few observations:

I would refer you specially to the Report of the Special Committee on Contributions of December 13th, 1944 (document C.88.M.88.1944.X), which, in addition to the annual statement on contributions paid and in arrear and the statistical information which experience has proved States Members find useful, sets out the steps taken since the inception of the League to induce States Members to meet their financial obligations and the circumstances which prevented the League from applying any effective sanctions against defaulters.

In a subsequent report (document C.10.M.10.1946.X),<sup>1</sup> the Committee has brought all the statistics up to the end of last year and has reported upon the arrangements made with certain States for the settlement of their arrears.

The Committee found that, as a general rule, States which are behindhand in the payment of their contributions expressed a desire to settle their debts before the dissolution of the League. This would enable them to discharge their just obligations and would at the same time entitle them to participate in the distribution of the assets on final liquidation. The Committee will continue its efforts to arrive at a settlement of debts on the fairest basis, taking into account the financial position of the States concerned and making allowance, as the League has always done in the past, for those States which have met with disaster.

I should now like to say something in explanation of our report for 1945—document C.118.M.118.1945.X—and of the Budget which the Commission approved for 1946. As we state in our introductory remarks on page 2, we had at one time hoped that the Assembly would be able to meet in 1945, not only to pass the 1946 Budget proposals, but also and more especially to relieve the Commission of the heavy burden which we have carried throughout the war years. But, as we observe in the last paragraph on page 3 of our report, the necessity for co-ordinating arrangements for the meeting of the League Assembly with those of the United Nations and the desire to have only one meeting of the Assembly, instead of the two which would have had to be called if one were held in 1945, led to a decision by the President of the Assembly to postpone our meeting until 1946. Meanwhile the Secretariat, the International Labour Organisation and other organisations had to be provided with credits to enable them to carry on in 1946 and the Commission had therefore to meet once again on its emergency footing and pass the votes required for the present year.

Though the Commission met late in the year and its session was spread over the months of October and November, there were many unknown factors in the situation ahead of us at that time. The Preparatory Commission of the United Nations had not met and it was not until December 18th that it set up a Committee to discuss questions of transfer with the Supervisory Commission, which had been given special authority for this purpose. There was therefore at the time of our meeting only one sure factor on which we could rely as regards the future, the continuance of the International Labour Organisation throughout 1946. The Permanent Court of International

<sup>1</sup> See Annex II, page 195.

Justice, we could assume, would give place to the new Court set up at San Francisco. But, as regards the Secretariat, it was impossible to foresee the date or dates on which the United Nations would be prepared to take over those non-political activities which we had so carefully, if economically, fostered during the war.

The conclusion at which we arrived, as you will see from the paragraph at the bottom of page 2 of our report, was that the estimates, in addition to making provision for statutory and contractual obligations, should be based on a full year's working, but that an adjustment should be made with the contributing Governments in case of transfers to the United Nations effected during the year. I hasten to add that the amount involved in any such adjustment will represent a very small proportion of the total League Budget, since the Budget includes both the credits for a full year's working of the International Labour Organisation and credits connected with the dissolution of the Court and various other liabilities arising out of the liquidation of the Secretariat, all of which have to be met punctually upon the dissolution of the League.

In view of the exceptional position in which the Secretariat would find itself this year, we decided to provide two Budgets for that organisation, an Ordinary Budget and a Special Budget. The Ordinary Budget, at 3,122,000 Swiss francs, is slightly less than that voted for 1945. The Special Budget, which amounts to 1,278,000 francs, is designed to meet the contractual liabilities which the League must face if the work of the Secretariat is transferred to the United Nations or concluded. Finally, to finance the present meeting of the Assembly, we decided that the simplest method would be to cut the lump-sum reduction in Chapter I of the Budget, which is headed: "Assembly, Council, Conferences and Committees", by 200,000 francs.

The total expenditure of the International Labour Organisation, as passed by the Governing Body, amounts to rather more than 11½ million francs. But not all this sum is payable by the League Members, since a sum of 3 millions is due from States which have adhered to the International Labour Organisation without joining the League. The amount due from the League States in 1946 is therefore 8,618,000 francs, involving a net increase of some 766,000 francs over the 1945 Budget. But, as you will see from the last paragraph on page 8 of our report, this increase is due to the fact that a Member State which appeared as contributing only to the International Labour Organisation in 1945 is shown as contributing to the whole League Budget in 1946.

For the Court, as for the Secretariat, we thought it expedient to provide a special as well as an ordinary Budget. The Ordinary Budget amounts to some 746,000 Swiss francs as compared with 471,000 for 1945. This apparently heavy increase is due to the resumption of certain annual liabilities suspended or paid only fractionally during the emergency. An account of these liabilities appears in the paragraphs bearing the letters small (a), (b) and (c) at the top of page 9 of our 1945 report.

The Special Budget consists of two credits, one of 1,990,000 francs to cover the agreed proportion of arrears of salary to Judges. I have already

dealt with this matter in an earlier passage of my remarks. The other credit is a small one of 192,000 francs to meet contractual liabilities arising out of the dissolution of the Court.

Finally, there is a special credit of 85,000 francs for the repayment of money advanced from the Guarantee Fund. Particulars of this transaction are given in the paragraph at the bottom of page 9 and top of page 10 of the report.

Of the other credits voted, the detail of which is given in the table on page 10, I need refer only to that for International Assistance to Refugees. This appropriation is more than double that for 1945 and the war years generally. The increase is due, as the report explains, to the resumption of the High Commissioner's work in France and Belgium and the reimbursement of an advance made from the Guarantee Fund for the same reason in the course of last year.

The total Expenditure Budget for the present year thus amounts to 17,880,000 francs, an increase of 3 millions over that for 1945. But, as is explained in the paragraph at the bottom of page 10, this increase is more than accounted for by the special credits voted for the Secretariat and the Court. This has unfortunately involved a rise of 8.66% in the value of the contribution as compared with 1945, but you will realise that this was unavoidable if the League was to be placed in a position to pay its obligations in full at the moment of its dissolution.

I would conclude my remarks on our report for last year by drawing your attention to the valuable memorandum on the Secretariat's publications during 1944. You will find the memorandum in Annex D on page 17. The account of the work of the International Labour Organisation in 1945 given on page 6 also contains much interesting information in a succinct form.

To what I have just said concerning our work in the past year, I am now able to add that the Supervisory Commission has passed the Audited Accounts of the Secretariat and the Permanent Court for 1945. For our statement on this subject, I would refer you to our report numbered A.19.1946.X.<sup>1</sup>

The Auditor of the League, with the rest of the officers concerned in the Treasury, has had to expand his geographical knowledge to an extent he never imagined before. He has had to do his auditing on various continents, wherever we had establishments of the League, as we wanted, when we met, the last Assembly of the League to be in a position to state that no step had been overlooked that had to be taken to meet in the ordinary way all the obligations which have always been imposed upon the Treasury of the League. The Auditor has not yet been able to audit the accounts of the International Labour Office for last year, but those accounts have been provisionally audited by the Chief Accountant of the League, and as soon as this Assembly has done its financial work, we are going to send the Auditor by the quickest aircraft we can find to conclude his work at Montreal.

As we already then cast our eyes towards the future, I should like to draw your attention to a passage in one of our earlier reports, that for 1944—document C.27.M.27.1944.X—which deals with certain questions of the financial organisation of international administrations. It would take me too long to give you even a brief summary of the considerations and recommendations developed

<sup>1</sup> See Annex 6, page 166.

in that report for the benefit of the successors of the League. But if you will take the trouble to read what we have said in the passage beginning at the first paragraph on page 4 and continuing to the end of Section A, I hope that you will find much food for thought on a subject which is vital to the good ordering of an international organisation such as the League. In it we have tried to condense all the financial experience of the Organisations of the League during more than twenty years of its existence.

You will be asked to settle many questions in connection with the dissolution of the League, and the disposal of its assets and staff. So far as the staff are concerned, I would draw your attention to the fourth, fifth, sixth and seventh paragraphs of Section A of the Report on our Ninety-ninth Session—document A.14.1946.X<sup>1</sup>—and likewise to Section B, headed "Indemnities to Staff", of the same report. Throughout the war years these officials have given the League good and faithful service and many of them have assumed part of the burden cast down by those who left at the call of national duty in the early years of the war.

I am confident that you will feel the same concern as we do for the interruption of the careers of these officials, arising as it does out of circumstances for which they are in no way responsible. The amount involved when we give them similar treatment to that accorded by the Assembly's resolution in 1939 is 660,000 Swiss francs. They have all been given their notice of dismissal, because we do not want to keep any unnecessary factors of the institution in existence after the Assembly is over. We realise that it is the idea of the League alone which lives and that the rest, like the Phoenix, must be reborn in the new organisation.

As regards the disposal of the League's assets, you have received the Commission's report on its negotiations with the Committee set up by the Preparatory Commission of the United Nations for this purpose—document A.8.1946.X.<sup>2</sup> This paper should of course be read in connection with the report of the United Nations Committee itself, which is reproduced in document A.9.1946. As we shall have later on opportunity of debating all the points raised in these papers and in parti-

cular the Common Plan printed in the Annex to document A.8.1946.X, I do not propose to say more on the subject at the present moment, except to commend these two reports to your earnest study. On these and other questions related to the dissolution of the League, the Commission has attempted to suggest in one or another of its most recent reports the solutions which it thinks the Assembly might adopt. We have done so in order to lighten the burden of discussion so far as possible, but I need hardly say that there are still many matters outstanding on which the Commission will be glad to give you such advice as it can when the time comes.

With these observations, I conclude my long account of the Commission's work in the past six and a-half years. Ours has not been an easy task, but we have undertaken it gladly and done our best, never failing in our belief throughout the darkest days of the war that, even if the League as such were to disappear, its ideals and many of its activities and methods must survive, if there was to be any hope at all for the future of mankind.

And we have had one compensation—the wonderful loyalty of the great majority of States Members of the League. No single country has ever raised any objection to the possible irregularities in procedure that events may have forced upon us. No Government has ever told us that our work was futile and that the League should be left to die an obscure and unregretted death. If we have met once more in a League Assembly and can discuss the future in full dignity and the knowledge that our organisation is financially sound and solvent and that our activities have continued to be of great service to mankind, it is not due to our efforts but to the courage and the wisdom of those Governments which throughout these years have given to the League ideas their unswerving support. And most particularly to that group of States which, under the pressure of their own hardships, sacrifices and sufferings and in spite of their financial difficulties, have promptly paid their contributions to the League they had created. Our gratitude should go to these States, and it is for their delegates to say whether we have faithfully discharged the onerous duty you laid upon us in September 1939.

## SECOND MEETING

Tuesday, April 9th, 1946, at 3.15 p.m.

Chairman: Sir Atul CHATTERJEE (India).

### 4. — ELECTION OF THE VICE-CHAIRMAN AND THE RAPPORTEUR

*By acclamation, the Committee elected M. Jaromír Kopecný (Czechoslovakia) as Vice-Chairman and Mme. C. A. Kluyver (Netherlands) as Rapporteur.*

### 5. — ADOPTION OF THE AGENDA

*The provisional agenda was adopted (Annex 3, page 146).*

<sup>1</sup> See Annex 5, page 160.

<sup>2</sup> See Annex 17, page 27.

### 6. — GENERAL SUMMARISED REPORT OF THE SUPERVISORY COMMISSION ON ITS WORK DURING THE PERIOD OF EMERGENCY, 1940-1946: GENERAL DISCUSSION

The Chairman having noted that no delegate wished to speak on this question, declared the discussion closed. All that the Committee was required to do, therefore, was to take note of the report, it being understood that a draft resolution would be submitted later on.

He would like, on behalf of the Committee, to thank the Supervisory Commission, and especially

<sup>1</sup> Document A.5.1946.X (Annex 4, page 149).

its Chairman, M. Hambro, and its Rapporteur, Sir Cecil Kisch, as well as the Acting Secretary-General, the Acting Director of the International Labour Office, the Registrar of the Court and the Treasurer of the League for the way in which they had administered the League's finances and safeguarded its interests during the war.

*The Committee took note of the reports on the work of the Supervisory Commission during the emergency period.*

7. — **FINANCIAL POSITION OF THE LEAGUE AS AT MARCH 31st, 1946, AND REPORT OF THE SPECIAL COMMITTEE ON CONTRIBUTIONS FOR 1946**<sup>1</sup>

The Chairman pointed out that these two reports should be taken together, and called attention to Chapter G of the Report of the Supervisory Commission on the Work of its Ninety-ninth Session<sup>2</sup> and Chapter E of the Report of the Supervisory Commission on the Work of its One-hundredth Session.<sup>3</sup>

Sir Cecil Kisch, Rapporteur of the Supervisory Commission, said that the Committee would find the latest picture of the League's financial position in the Report of the Special Committee on Contributions which was dated March 27th, 1946. That report had now been accepted and approved by the Supervisory Commission in the Report on its One-hundredth Session. The figures in the Report of the Contributions Committee went up to December 31st, 1945, and steps had been taken to give a complete picture of the progress of events for the whole period up to March 31st, 1946. Valuable information on the financial situation of the League would be found in document A.20.1946.X.

It would be seen from Appendix I of the Report of the Contributions Committee that a little over 90% of the annual budgets had been received, something under 4½% cancelled, and about 1½% consolidated, and that arrangements had been made for payment over a number of years. About 4% was still due to the League. A statement of the contributions which had been paid in the current year (1946) would be found on page 3.

The Contributions Committee had given constant attention to the question of the collection of the contributions due to the League, which had never been more important than at the present time, when the League had to contemplate the cessation of its existence and when in order to clear up its debts and meet its commitments, it naturally required the prompt payment of contributions.

The Chairman of the Contributions Committee, who was also the Chairman of the Supervisory Commission, had given very great personal attention to this matter, both in London and in Geneva, and it was largely due to his efforts that the position was as satisfactory as it was. During the course of the current session, contributions were expected from various States whose payments at present consisted in promises which it was hoped would shortly be realised in cash. Since the end of March, payment had been received from Finland of more than half the amount due under the arrangement reached with that country, and an ex-Member of the League, Honduras, had paid up the whole of its consolidated contribution. The Treasurer had been given

assurances that various other payments were on the way, and the Second Committee would be kept informed of the position.

The only other report he wanted to mention was that of the Supervisory Commission on its Ninety-ninth Session, in which the Commission had re-examined the subject of arrears at the latest possible date before the Assembly: the position up to the end of March had already been presented to the Committee.

Arrangements had been made, details of which were contained in the Report of the Contributions Committee, for adjusting the payments of certain States whose position was somewhat exceptional. The reasons for these reductions would be found in the report. Some of these States had been in enemy occupation during the war, and it was obvious that if a realistic attitude were to be adopted, special steps would have to be taken to bring their payments within their capacity, seeing that they needed to spend large sums on their own reconstruction.

It was believed that in making these arrangements, justice had been done to the claims of the League. In the many discussions that had taken place with representatives of the States, a genuine desire had been manifested to liquidate debts to the League, and it was hoped that promises would be translated into hard cash. States did understand that the League's debts were just moral obligations. They had a natural desire to discharge all commitments before the League passed out of existence. They did not wish—many of them were already in the new organisation—to have any stain on their financial record when they joined it. They were also sensible of the fact that the clearance of debts was a necessary factor in the distribution of any assets available when the liquidation of the League reached its final stages.

M. Aly Gritly (Egypt) said that it gave him great pleasure to inform the Committee that the Egyptian Government had asked him to express its intention of liquidating in full its outstanding financial obligations to the League. The settlement of these outstanding arrears would, however, depend on the availability of Swiss francs, Egypt's quota of that currency being fixed under certain arrangements in the sterling area.

M. Rosner (Poland) announced that the Polish Government had accepted the proposals for an arrangement which appeared on page 4 of document C.10.M.10.1946.X. It would take the necessary steps to settle its debt in spite of all the currency difficulties which Poland was at present experiencing.

M. Nogueira (Uruguay) announced that in execution of the terms of the arrangement concluded in London between the Uruguayan Embassy and the Treasurer of the League, the President of the Uruguayan Republic, the Minister for Foreign Affairs and the Minister of Finance had signed an order for the payment of arrears. A cheque would therefore arrive at any moment.

M. Dao (China) said he had pleasure in informing the Committee that the terms of the arrangement with China had been carried out by the Chinese Government. Steps had been taken to pay the sums concerned and a letter had already been sent to the Chairman of the Supervisory Commission.

The Treasurer said that none of the remittances had been received as yet, but he believed they were on the way. He had had assurances from

<sup>1</sup> Documents A.20.1946.X (Annex 12, page 209) and C.10.M.10.1946.X (Annex 11, page 196).

<sup>2</sup> Document A.14.1946.X (Annex 5, page 160).

<sup>3</sup> Document A.19.1946.X (Annex 6, page 166).

certain other States and would report on the position later.

*The Report on the Financial Position of the League as at March 31st, 1946, and the Report of the Special Committee on Contributions for 1946, together with Chapter G of the Report of the Supervisory Commission on the Work of its Ninety-ninth Session and Chapter E of the Report of the Supervisory Commission on the Work of its One-hundredth Session were approved.*

#### 8. — TERMINATION OF THE LEAGUE: MEASURES TO BE TAKEN WITH REGARD TO THE STAFF<sup>1</sup>

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, drew attention to the Supervisory Commission's views (page 2 of the document) with regard to the indemnities to be paid to the staff of the League on the termination of their contracts.

The Commission had not had occasion to deal with the case of those permanent officials whose contracts entitled them to compensation on the abolition of their office. It had had, however, to deal with a number of categories of officials whose contractual position did not entitle them to compensation. It had examined the position from the point of view of the financial practicabilities of the League and also of the equities which the officials concerned were entitled to expect from their employer.

The League was facing a very unusual and unprecedented position—the compulsory termination of the engagements of a large number of people who had been collected from different parts of the globe and whose discharge would take place, as a general rule, outside their home land, so that they would have to re-establish themselves in the national life of their country. In the country of which he knew most, there had been various cases of what might be called "lump abolition" of office, and such cases had always been regarded as meriting very different treatment from cases of individuals who for one reason or another lost their posts.

In the case of the League, there were other considerations of great importance. In most cases—at any rate those which were financially more substantial—the officials concerned would normally have had permanent contracts. But the Supervisory Commission had always had in mind the uncertain future of the organisation, and at a relatively early stage of the war it had impressed upon the Secretary-General the importance of keeping contracts in such a state, wherever possible, that they could be terminated without prolonged notice and excessive obligations. The result was that a number of people who, in the ordinary course, would have received seven-year renewable contracts received only five-year contracts, although they had been in continuous service from a date preceding the war.

The Supervisory Commission felt that it was not fair to treat these people otherwise than they would have been treated had their service been made to conform to the ordinary practice of the League: the length of their service justified that. The Commission considered that, on the termination of their employment, indemnities should be authorised on the same terms as those accorded to permanent officials. It was felt that on the occasion of the winding-up of the League somewhat artificial distinctions should not debar them from the rights and privileges they would have had in the ordinary way. In this

<sup>1</sup> Document A.14.1946.X, Chapters B and D (Annex 5, pages 161 and 162).

matter, the Commission had conformed as closely as possible to the treatment given by the Assembly of the League when officers were discharged under the conditions of crisis of 1939 and shortly afterwards.

In the case of a small number of re-engaged officials (see page 3 of the document), it was suggested that they should, on discharge, be given one month's salary for each completed year of service since their re-engagement. The total cost of indemnities to temporary officials appointed since the war, including those re-engaged after the termination of their contracts, was estimated at not more than 50,000 Swiss francs.

The Commission's proposals would seem to be in accordance with justice and to be the minimum due to officials whose careers had been terminated through circumstances entirely outside their control. They had given loyal service to the organisation—in numerous cases for many years—and had seen the work to which they had devoted their lives break down in their hands. They required a certain amount of cash to re-establish themselves in new walks of life. Members of the Committee would realise that that was not an easy task at the present time for people who had been out of touch with affairs in their own countries for so long.

There was one difference which the Commission proposed with regard to the payment of indemnities. In 1939, in order to husband the resources of the League, which were gravely threatened, it was necessary to arrange for the payment of indemnities over a period of four years. It was now proposed to return to the usual practice of paying them in one sum.

*The Committee approved the action recommended by the Supervisory Commission under Chapter B of its Report and took note of Chapter D.*

#### 9. — COMPLAINT OF CERTAIN FORMER OFFICIALS OF THE GOVERNING COMMISSION OF THE SAAR TERRITORY: REPORT OF THE SUPERVISORY COMMISSION<sup>1</sup>

**The Chairman** pointed out that the Supervisory Commission had expressed the view that these officials had received more than generous treatment from the League. It had advised the Acting Secretary-General to take no further action in this matter.

**The Acting Secretary-General** said that the case had come before the Committee partly because the Permanent Court of International Justice had gone out of existence and it was not possible to carry out the Council's request for an advisory opinion. He had that day received a letter from the representative of the officials, claiming that any new arrangements for a settlement should be made by agreement between the complainants and the League and stating that he was available if a new method of settlement, such as arbitration, were accepted.

**M. Lebeau** (Belgium) said that M. Kaeckenbeeck, the Belgian delegate on the Committee, who was prevented from attending the meeting, desired to make a statement on this matter in which he was specially interested. The Belgian delegation would therefore be grateful if the Chairman would give him an opportunity to do so at a later meeting.

**M. Charveriat** (France) suggested that, as the Belgian delegate wished to make a statement, this item of the agenda should be adjourned.

*This proposal was adopted.*

<sup>1</sup> Document A.15.1946.V (Annex 22, page 241).

## THIRD MEETING

Thursday, April 11th, 1946, at 3.15 p.m.

Chairman: Sir Atul CHATTERJEE (India).

## 10. — COMPOSITION OF DELEGATIONS

The Chairman announced that he had received a letter from Mr. Noel-Baker, first delegate of the United Kingdom, asking for his permission to appoint the Attorney-General, Sir Hartley Shawcross, as a substitute United Kingdom delegate on the Second Committee, in the absence of the Financial Secretary to the British Treasury, Mr. Glenvil Hall, who had not yet reached Geneva. He took it that there would be no objection to this.

11. — STAFF PROVIDENT FUND, STAFF PENSIONS FUND AND JUDGES' PENSIONS FUND<sup>1</sup>

The Chairman proposed that these questions should be taken together.

The Staff Provident Fund would be liquidated during the present year, so that no decision was called for on the part of the Committee.

As regards the Staff Pensions Fund, the Committee was asked to approve in principle the Supervisory Commission's recommendations. Once this approval had been given, consequential amendments would have to be made to the Staff Pensions Regulations. A formal resolution on the subject would be submitted later by certain delegations.

Sir Cecil Kisch, Rapporteur of the Supervisory Commission, said that the principal preoccupation of that Commission had been to ensure that the security of the pensioners continued absolute, and that no one found his interests prejudiced in any way.

The problem was not one that could be passed over to the United Nations. The question arose whether it would be more convenient and perhaps more economical to arrange for these responsibilities to be taken over by an outside private body; but the International Labour Office, with its substantial number of members of the Fund, was going on, and the members had the right to continue under the rules established by the League. Furthermore, if they tried to divide the Fund and deal with the League staff apart from the others, there would be undesirable disparities. However excellent an outside insurance concern might be, nothing could compare in security with the guarantee of a large group of powerful States pledged to see that those who had subscribed to the Fund received, when their service was over, the pensionary privileges due to them. The Supervisory Commission had therefore come to the conclusion, both on realistic grounds and on grounds of economy, that it was desirable that this Fund should, after the disappearance of the League as such, be managed by another international organisation which would take the administrative work in its stride, where

there would be no question of private profit, and where any ultimate surplus would inure to the Fund or to the States which had made such large contributions. Moreover, the International Labour Organisation comprised the States represented in the League, and for all these reasons the Supervisory Commission proposed that the Fund should be managed by that Organisation, if it was willing to accept the duty on the conditions indicated.

The Fund, allowing for the world upheaval, was in a highly satisfactory position, according to the rules under which it had been set up. These rules were not quite suitable for new entrants, and it was intended to have the Fund re-examined by the Actuary. If the Actuary recommended that any further grant should be made to the Fund before transfer, the Supervisory Commission expressed the opinion in its report that the question should be favourably considered by whoever was responsible for undertaking the liquidation of the League, in the light of the available resources.

No additional charge was imposed on the League by what was proposed, but Member States would still be called on to fulfil the same obligations as before, as was only just and reasonable.

The Supervisory Commission had done its best to see that the Fund was in a thoroughly solvent condition and for this purpose had transferred to it the League Reserve Fund. It was therefore in a more satisfactory position than could possibly have been expected six years ago.

As regards the Judges' Pensions Fund, this was not an insurance fund; there were too few members to have any basis of averages. All that the League did was to concentrate such resources as it could from year to year with a view to equating the likely burden on the League's budget as judges passed from active service on to the pension list. There were only eleven members drawing pensions, and three who might become pensionable. The Supervisory Commission thought the proper course was to invite the International Labour Office to carry out the administrative work involved on the same basis as had hitherto prevailed inside the League, the States having the same responsibilities as before, so as to ensure that no judge whose service had entitled him to a pension should at any stage find himself deprived of his rights.

The reports of the Administrative Board of the Staff Pensions Fund were very valuable documents, and the Supervisory Commission had been in close sympathy with the views of the Board. He wished to acknowledge the debt that not only the Supervisory Commission but all the members of the Staff Pensions Fund owed to the work of Mr. Cremins, who had been re-elected Chairman, and of his colleagues.

Mr. Cremins, Chairman of the Administrative Board of the Staff Pensions Fund. — I have pleasure in presenting the Tenth and Eleventh Reports of the Administrative Board of the Staff

<sup>1</sup> Documents A.3.1946.X, A.4.1946.X, A.8.1946.X, A.12.1946.X, and A.25.1946.X [Annexes 9 (page 181), 10 (page 182), 17.1 (page 217), and 7 (page 174).]

Pensions Fund<sup>1</sup> and the Actuarial Valuation of the Fund.<sup>2</sup> These reports cover the period 1939 to 1946. I should also draw attention to the Reports of the Supervisory Commission on the Work of its One-hundredth and Hundred-and-first Sessions<sup>3</sup> and to paragraph 6, page 2, of the Report of the Supervisory Commission on discussions with the representatives of the United Nations on questions of the transfer of League assets.<sup>4</sup> In paragraph 6 of the Common Plan annexed to that Report, it is mentioned that the League shall make arrangements, independently of the United Nations, with regard *inter alia* to the continued administration of the Staff Pensions Fund.

At the present moment it is more important to look to the future of the Fund now that the League is being dissolved, but it is perhaps desirable that I should draw the special attention of the Committee to a few of the points set out in the Board's reports, and give up-to-date information regarding membership and pensions.

The Tenth Report gives, on page 4, the total number of active members of the Staff Pensions Fund, which was 197 as at December 31st, 1944. As at December 31st, 1945, their number was 189, distributed as follows:

Secretariat . . . . .	70
International Labour Office . . . . .	108
Permanent Court . . . . .	11
Total . . . . .	189

The number of pensions paid as at December 31st, 1945, was:

Retiring pensions . . . . .	117
Widows' pensions . . . . .	21
Orphans' pensions . . . . .	7
Invalidity pensions . . . . .	15
Total . . . . .	160

The 70 officials of the Secretariat and the 11 officials of the Registry of the Permanent Court will be leaving the Fund, which will then be composed of 108 members, all officials of the International Labour Office. If all these Secretariat and Permanent Court officials should choose payment of capital sums, the amount payable out of the Fund would be for the Secretariat a little over 4 million and for the Court a little under one million Swiss francs.

Since the last actuarial valuation of the Fund in 1939, an interim report was made by the Consulting Actuary in May 1940 and a further valuation as at December 31st, 1944. These valuations were examined by the Board, which concluded that, on the actuarial basis originally adopted, the solvency of the Fund was unquestioned, but that certain factors affecting its financial situation had arisen, particularly as regards the rate of interest on investments.

As regards new admissions to the Fund, the Board in its Tenth Report urged that in granting any contracts of employment to new appointees entitling them to admission to the Fund, the organisations of the League concerned should at the same time make provision for additional contributions in respect of such members adequate for the benefits to which those members would be entitled. In making this recommendation, the Board had particularly in mind the fact that the interest earnings on the Fund's investments are considerably lower than the figure of 4¼% which

was taken as a basis of calculation in drawing up the existing regulations. The Board's recommendation having been accepted by the Supervisory Commission, the Board decided that the recommendation should be applied as from a date not later than November 20th, 1945.

It will be observed that the Board at its first meeting after the war recorded its high appreciation of the zeal and efficiency shown by the officials in carrying on the work of the Fund during the period of extreme difficulty resulting from the international situation, more particularly during the summer of 1940. After the bulk of the work involved in the discharge of a large number of the members of the Fund had been concluded that year, the Secretary and Assistant-Secretary of the Fund undertook a hazardous journey, bringing to London records indispensable for the continuance of payment of pensioners. They were thus enabled to open an office in London where the work of the Fund was proceeded with. It was principally owing to this arrangement that the Fund was able to pay all pensions regularly and promptly throughout the whole period of the war. The fact that members retiring from the Fund were paid their full benefits with negligible delay, although payments of more than fifteen million Swiss francs were involved, and the pensioners were widely scattered, speaks highly for the efficiency and ingenuity of the Board's secretariat.

I should like in this connection to pay a tribute to the Treasurer of the League for the arrangements which, in the stress of his multifarious duties involving difficulties and dangers, he never failed to initiate. It is not the first time by any means that the Fund and its members have owed a debt of gratitude to Mr. Jacklin.

As regards the future of the Pensions Fund, I should explain that up to now the Fund has been administered by the League, and members have had the guarantee of the League Member States as to the fulfilment of the pensionary conditions attaching to their service, this guarantee being written into the Pensions Fund Regulations in Article 13 as follows: "The League of Nations guarantees the payment of all annuities or capital sums falling due under the present Regulations." The Fund applies to the Secretariat, to the official of the Permanent Court and to the International Labour Office. The pensioners of the Secretariat and of the Registry of the Permanent Court will disappear in the process of years, but the International Labour Office is a continuing organisation.

It will be seen from paragraph 6, page 2, of document A.8.1946.X that it has been suggested, as explained by Sir Cecil Kisch, as the most convenient arrangement for the future administration of the Fund, that such administration should be taken over by the International Labour Office, and that States Members of the League which are also Members of the International Labour Organisation should continue to be responsible for implementing the pensionary conditions of retired officials of the Secretariat and of the Permanent Court. States Members of the International Labour Organisation would, of course, hold themselves responsible for the due discharge of obligations to officers of that Organisation.

It is understood from the Supervisory Commission's Report<sup>1</sup> that although the Governing

<sup>1</sup> Documents A.4.1946.X and A.12.1946.X (Annex 10.I and II page 182).

<sup>2</sup> Document A.7.1946.X (Annex 10.III, page 187).

<sup>3</sup> Documents A.19.1946.X, Chapter F, and A.25.1946.X (Annexes 6 and 7, pages 169 and 174).

<sup>4</sup> Document A.8.1946.X (Annex 17.I, page 218).

<sup>1</sup> Document A.25.1946.X (Annex 7, page 174).

Body of the International Labour Office has not yet met to take a decision, it is believed that the International Labour Organisation will agree to accept responsibility for the future administration and financing of the Staff Pensions Fund, it being understood that States Members of the League who are also Members of the International Labour Organisation will maintain their existing guarantee.

It will of course be a condition of transfer that the Fund should first be placed in a position to meet all its financial obligations. It is the intention that, if the proposed transfer is agreed to, a report from the Actuary on the state of the Fund at the latest possible date will be obtained, in order that, if necessary, such financial provision as circumstances indicate can be made from League funds before transfer is effected.

Finally, I do not anticipate any difficulty as regards the Supervisory Commission's suggestion that the Board should remain in being with its present membership until such time as the Fund is taken over by the International Labour Organisation.

**The Chairman** expressed the thanks of the Committee to Mr. Cremins for his admirable statement and for the difficult and hazardous work he had carried on with his colleagues of the Sub-Committee during the past few years. He was sure that the Committee had been pleased to hear that the Board was willing to carry on its work after the dissolution of the League until a satisfactory new basis had been reached.

**Mme. Kluyver** (Netherlands), Rapporteur, said that she wished in the first place to express appreciation on behalf of the Netherlands delegation of the work accomplished during the war years by the Supervisory Commission, the Treasurer and the Administrative Board of the Pensions Fund.

The Netherlands delegation had, generally speaking, always showed willingness to accept any proposals put forward by those authorities. To-day, however, she felt a certain amount of hesitation and she desired first to ask for certain additional information.

Sir Cecil Kisch had stated that the Fund was in a very satisfactory state. It would seem, however, that it had come up against certain difficulties, as was shown by the documents submitted to the Committee, in particular the Actuarial Valuation.<sup>1</sup> Apart from the question of the rate of interest, which had already been discussed by Mr. Cremins, there had been a fall in mortality, very frequent cases of retirement and a reduction in the membership of the Fund. The Supervisory Commission would also seem to have anticipated such difficulties, judging from the last two paragraphs of the first part of the Annex to its Report on the Work of its Hundred-and-first Session.<sup>2</sup> It was stated there that "if any future actuarial examination should show that further fortification of the Fund is required, the necessary financial provision will be made...". Further on, mention was made of a possible augmenting of the resources of the Fund "in the light of the available resources of the League...". These somewhat vague indications were distinctly contrary to the traditions of the Fourth Committee, and delegations were in the habit of knowing in respect of what figures they had to vote. She desired that certain information should be supplied in one way or another with regard to the figures in question. In the Tenth Report of the Administrative Board of the Fund it was stated in paragraph 15, page 2,<sup>3</sup> that "the Consulting

Actuary has been asked to calculate the amount of the shortage between the rate of 4¼% on which benefits are based and the prospective future interest of 2 or 2½%...". Further, in the Eleventh Report of the Administrative Board it was stated in paragraph 3, page 2,<sup>1</sup> that the Administrative Board would re-examine the position of the Fund "in the light of a further report of the Actuary". She believed that this further report had not yet been submitted. It would perhaps be more in conformity with the traditions of the Assembly that, before a vote was taken even in principle on the proposals which had been made, further information should be made available with regard to the figures and the financial liabilities—information which could be supplied either by the Supervisory Commission or by some other authority.

In the Actuarial Valuation already referred to it was stated in paragraph (b), page 3, that "the accumulated fund would suffice, in the event of complete and immediate liquidation of the Pensions Fund, to pay all retiring members the lump sums due to them". As regards the possibility of a liquidation of the Fund, she said that she realised the risk of unpopularity involved in suggesting that the Fund should not be simply handed over to the International Labour Office. But she wondered whether it would not be advisable to examine that suggestion (which had already been put forward) more closely before rejecting it. The Rapporteur of the Supervisory Commission appeared to think that the majority of those concerned would prefer a Government guarantee to a "private" guarantee. This idea would appear to deserve investigation now or on some other occasion.

In conclusion, the Netherlands delegation would prefer not to accept the present proposals until they had received further information and had examined the possibility of the other solution.

**M. Lebeau** (Belgium) expressed the appreciation of the Belgian delegation for the manner in which the Pensions Fund had been administered during recent years. He expressed gratitude to the Administrative Board and its Chairman, Mr. Cremins, to the Supervisory Commission and its Rapporteur for the wisdom, prudence and far-sightedness which they had exhibited, and to the secretariat of the Pensions Fund. He desired in this connection to render homage to the memory of Mme. Juncker-Rohde whose accidental death grievously affected them all. Finally, he thanked and congratulated the Treasurer for the courage, energy and competence with which he had carried out his task in the circumstances with which all were acquainted. It was thanks to him that all the officials of the Secretariat, the International Labour Office and the Court had been able to receive the full amount due to them in all sorts of countries and regions.

He would now submit certain observations with regard to the actual administration of the Pensions Fund.

(1) Sir Cecil Kisch had referred to the transfer to the Pensions Fund of the Reserve Fund of the League, that was to say, a sum of approximately eleven millions. In this connection, page 3 of the General Summarised Report of the Supervisory Commission on its Work during the Period of Emergency<sup>2</sup> contained the following paragraph: "The retrenchments in respect of large numbers of the staffs of the Organisations..... involved great inroads on the Pensions Fund, the solvency of which was seriously affected, and it was accordingly decided that the Reserve Fund of the League should be transferred to the Staff Pensions Fund."

<sup>1</sup> Document A.7.1946.X (Annex 10. III, page 187).

<sup>2</sup> Document A.25.1946.X (Annex 7, page 177).

<sup>3</sup> Document A.4.1946.X (Annex 10.I, page 183).

<sup>1</sup> Document A.12.1946.X (Annex 10. II, page 186).

<sup>2</sup> Document A.5.1946.X (Annex 4, page 151).

These words seemed to suggest that the transfer in question constituted, as it were, an act of generosity on the part of the League, but that was not exactly the case. The League was under a series of obligations towards the Fund: (a) to make good the initial deficit of the Fund; (b) to make good as quickly as possible the losses suffered in 1939 and 1940 in consequence of premature departures; (c) to make good losses of interest consequent upon the investment practice which had been followed; (d) to guarantee in general the payments of the Fund in accordance with the Regulations.

It could not, therefore, be said that the Fund was no longer solvent in 1940, but it was not in possession of adequate liquid assets, and the Supervisory Commission and the Treasurer had very rightly decided that available resources should be mobilised by the transfer of the Reserve Fund of the League to the Pensions Fund.

(2) The transfer of the Pensions Fund, with its assets and its obligations, to the International Labour Organisation was dealt with in the Report of the Supervisory Commission on the work of its Hundred-and-first Session.<sup>1</sup> The Belgian delegation was in complete agreement with this solution, which was a logical one, provided that it was accepted by the Governing Body of the International Labour Office and provided also that the Treasurer and the Rapporteur of the Supervisory Commission gave certain explanations in reply to the remarks of Mme. Kluver.

The same applied to the suggestion made in the Report, namely that the guarantee of the League as regards the payments of the Fund should be replaced by a guarantee of the International Labour Organisation, the liabilities arising out of this guarantee being consequently assumed by the States Members of the League which were also Members of the Organisation.

(3) As regards the admission to the Fund of new members, the Belgian delegation warmly welcomed the proposals of the Administrative Board, and the approval by the Supervisory Commission, to a new regime of admission. It would not be normal that, in the same international institution, there should be officials enjoying rights provided for by the existing Fund while other officials were not benefiting thereby. During the war, that state of affairs had existed owing to the force of circumstances, and perhaps also to an excess of prudence in administration, but the situation could not continue. The Belgian delegation would be happy to see a regime adopted which would enable the Director of the International Labour Office to insure all his officials by means of the Pensions Fund, thanks, if necessary, to the resources of the Fund being augmented, as the Actuary's report appeared to recommend.

(4) All the officials of the League had received notice of termination of contract. According to the Regulations of the Fund, the amount due in respect of pensions would have to be paid to them when their term of service came to an end. In the case of many officials, this settlement would involve considerable sacrifice inasmuch as they had not reached the age of 60, the age at which the maximum benefits were payable. While not wishing to put forward a definite proposal, he wondered if a regime could not be contemplated by the Administrative Board under which officials whose contracts were terminated in this way were not required to accept immediately a settlement of their pension rights, but might (a) either remain members of the Fund and continue to pay their contributions so as to be entitled to receive at the age of 60 the total payments due to them under the Regulations; (b) or cease to pay their contributions, the sum

to be paid to them remaining in the Fund, and continuing to increase with compound interest until they reached the age of 60.

No doubt this system had not been foreseen by the Fund, but nor had the Fund been established on the hypothesis of the departure of a great many officials under the age of 60. It would perhaps be desirable to make provision for a more liberal and generous regime. The Belgian delegation would be happy if suggestions on these lines could be examined by the Supervisory Commission and by the Administrative Board of the Fund.

**Sir Charles Webster** (United Kingdom) associated himself with the thanks expressed by the Belgian delegate to certain officials. He assumed that at the appropriate moment the Committee would record in a resolution its gratitude to them and to the Supervisory Commission.

More than one delegation shared the uneasiness expressed by Mme. Kluver about the rather vague character of the League's obligations. The problem was, however, a very difficult one. The League must ensure that its officials should have their contracts fully carried out; and such would not be the case if they were forced to accept a lump sum. If the Rapporteur of the Supervisory Commission could give some estimate of these obligations—which would throw a great responsibility on the Board of Liquidation and which would have considerable effect on the whole question of the division of the liquid assets—it would very much help the Committee to accept them.

He agreed that the Supervisory Commission's suggestion to take advantage of the continuation of the International Labour Office should receive the support of the Committee.

**M. Grafström** (Sweden) said that the Swedish delegation, for its part, agreed with the Belgian delegate.

**Mr. Sole** (Union of South Africa) expressed the hope that the International Labour Organisation would be able to accept the proposed commitment in regard to the Judges' Pensions Fund. He had been a member of the United Nations Committee which had negotiated the Common Plan with the Supervisory Commission. For reasons of policy, the United Nations Committee did not feel able to accept a suggestion that the United Nations should undertake the administration of the Judges' Pensions Fund, but it had felt that this was placing the Supervisory Commission in a difficult position, and he was glad that such an admirable solution had been found.

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, associated himself with the tribute paid to Mme. Juncker-Rohde.

Replying to the various remarks that had been made, he noted that all the members of the Committee agreed that the obligations entered into *vis-à-vis* the staff should be faithfully carried out. A point that ought to be thoroughly appreciated was that the Fund was reported on extremely favourably in the actuarial valuation. The Fund was in a position, if called upon to do so, to undertake immediate and complete liquidation, but of course those who preferred a pension were entitled to have it. As regards the vagueness of certain references, this was due to the fact that no serious lacunæ had been revealed. A new actuarial valuation was being made because it was desired to hand over the Fund to the International Labour Office in the soundest possible condition. Nothing would happen as a result of this transfer, which would not have happened had the League continued to be in charge.

As regards the question of making over the Fund to a private authority, while they were great believers in private enterprise in his country, it

<sup>1</sup> Document A.25.1946.X (Annex 7, page 174).

must be remembered that the Fund had been established and guaranteed by all the Governments, and however well managed and stable private insurance institutions might be, there could be no question that the guarantee of financially-powerful States was more valuable than an undertaking by one or more private companies. The United Nations being out of the picture, the only solution was to try and persuade the International Labour Office to step into the shoes of the League.

As regards new officials of the Office, they must be taken in on a basis which fully covered the risks, and he personally considered that the best solution would be to close the existing Fund and open a new one.

While he had some sympathy with M. Lebeau's idea of allowing retiring officials of the League to remain in some way in the present Fund, this question had not yet been fully considered by the Administrative Board. The retiring officials would be scattered all over the globe and the certainty of regular contributions under the conditions hitherto prevailing would not continue. He personally considered the difficulties insuperable.

**Mme. Kluyver** (Netherlands), Rapporteur, thanked the Rapporteur of the Supervisory Commission for his explanations. There was still some difference of opinion between them on certain points, perhaps because she was more pessimistic: the Actuary's Report did not seem to her to be quite so reassuring as Sir Cecil Kisch suggested. However, in view of the assurance given by him and of his suggestion that the present Staff Pensions Fund might be closed and a new Fund started for new personnel, the Netherlands delegation would not oppose the adoption of the solution recommended by the Supervisory Commission. The members of the Second Committee would appear to accept it unanimously.

**The Chairman** hoped that the points raised had been covered by the Rapporteur of the Supervisory Commission to the satisfaction of all members. He asked the Committee to approve in principle the recommendations made by the Commission. At a later stage certain resolutions would be put forward for additions and amendments to the Staff Regulations.

*The recommendations of the Supervisory Commission were approved in principle.*

**M. Friis** (Denmark) said that the Danish delegation would like to express its gratitude to the Belgian delegate and to the Rapporteur of the Supervisory Commission for their references to the work of Mme. Juncker-Rohde and for the tribute paid to her memory. Both her compatriots and her former colleagues would find in her example a confirmation of something that was very essential to any international secretariat—the proof that an ardent and active patriotism might very well be combined with the effective and loyal performance of one's duties as an international official.

12. — **FINANCIAL POSITION OF THE LEAGUE AS AT MARCH 31st, 1946, AND REPORT OF THE SPECIAL COMMITTEE ON CONTRIBUTIONS FOR 1946** <sup>1</sup> (continuation)

**M. Nihad Erim** (Turkey) said he was glad to inform the Committee that the Turkish Government, in execution of the arrangement reached with regard to its contributions in arrears,

<sup>1</sup> Documents A.20.1946.X (Annex 12, page 209), and C.10.M.10.1946.X (Annex 11, page 195).

had paid the total sums due from Turkey to the Swiss National Bank.

**The Treasurer** said that he had great pleasure in informing the Committee that he had received the Turkish contribution amounting to 2,179,000 Swiss francs.

13. — **ADMINISTRATIVE TRIBUNAL: JUDGMENTS GIVEN ON FEBRUARY 26th, 1946, WITH REGARD TO CLAIMS OF CERTAIN FORMER OFFICIALS** <sup>1</sup>

**The Chairman** said that he wished to consult members of the Committee on the procedure to be followed in examining this item.

The report of the Supervisory Commission on the Work of its Ninety-ninth Session <sup>2</sup> contained the following statement:

“As an acceptance of the findings of the Administrative Tribunal would put its decision above the authority of the Assembly, the Supervisory Commission could not take the responsibility of advising the Acting Secretary-General and the Acting Director of the International Labour Office to apply the judgments of the Administrative Tribunal. It has accordingly advised the two Administrations to take no action on them pending consideration of the whole question by the Assembly.”

The Commission had therefore not found it possible to follow its usual course of expressing a clear and definite opinion and had left the whole matter to the Assembly.

The subject was one of great complexity, and progress would be more rapid if it were studied in advance by a small and carefully selected sub-committee. Every opportunity would be given for a full discussion after the sub-committee had made its report.

*The Chairman's proposal to set up a sub-committee was adopted.*

**The Chairman** proposed that the sub-committee should consist of the following delegates: M. Kopecky (Czechoslovakia), Vice-Chairman of the Second Committee; Sir Hartley Shawcross (United Kingdom); M. da Matta (Portugal); M. Nihad Erim (Turkey); M. Watteau (France); M. Padilla-Nervo (Mexico); Professor Bailey (Australia).

*The Chairman's proposal was adopted.*

**The Chairman** suggested that M. Kopecky should act as Chairman of the Sub-Committee.

*This proposal was adopted.*

14. — **DISSOLUTION OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE: CONTRACTUAL LIABILITIES ARISING OUT OF THE DISSOLUTION OF THE COURT** <sup>3</sup>

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, referred the Committee to Chapter C of the Report of the Supervisory Commission on the Work of its Hundred-and-first Session. <sup>4</sup>

Two points had arisen with regard to the claims of the Carnegie Foundation for liabilities connected

<sup>1</sup> Documents A.14.1946.X, Chapter C, and A.16.1946.X (Annexes 5 and 22.I, pages 162 and 241).

<sup>2</sup> Document A.14.1946.X (Annex 5, page 162).

<sup>3</sup> Documents C.118.M.118.1945.X, Chapter F, Section III, Sub-Section 3; and A.14.1946.X, Chapter A, paragraph 9 (Annex 5, page 161).

<sup>4</sup> Document A.25.1946.X (Annex 7, page 175).

with the Permanent Court of International Justice. The first concerned the amortisation of certain annual payments to cover alterations in the Peace Palace premises to suit the convenience of the Court. These payments had been amortised over a number of years and the Carnegie Trustees had agreed that as very little use had been made of the Palace during the war they should be pushed forward, claims in respect of the war years not being pressed. Instead they would come at the end of the cycle, when the premises had passed into the hands of the United Nations, who had established the new Court at The Hague. That matter, therefore, had been satisfactorily disposed of.

There remained the question of the annual payments for maintenance charges during the war years. Owing to circumstances beyond the control of the Court—the war and the occupation of the Netherlands by the enemy—there was no possibility of making adequate use of the premises, though some use had been made of them by one of the Judges who was Dutch and who had done a certain amount of valuable work there.

The Supervisory Commission was therefore anxious to induce the Carnegie Trustees to recognise that the League was entitled to some abatement of the standard charges. These charges were based on a complicated set of documents. One was a contract which provided for the payment of 20,000 florins a year; another was a letter from the Secretary-General promising to make that sum up to 40,000 florins. The payments had continued for many years. They were apparently designed to defray the expenses of running that part of the Peace Palace which was devoted to the Permanent Court of International Justice.

During the war, the Carnegie Trustees were able to reduce their expenses on certain items, such as personnel. On the other hand, they had had additional expense owing to the need for insuring the Peace Palace against war damage and so on.

The Supervisory Commission had tried to arrive at a compromise. It had sent a delegation to The Hague to discuss the matter. They came away without results. An individual who happened to be going there and who was well known in the Netherlands also came back with empty hands.

The Supervisory Commission felt that though a difference of view still subsisted, it could not press the matter further. There was an adequate case for meeting the claim, inasmuch as the premises had been held at the disposal of the Court. After much thought, therefore, it had decided to recommend the payment to the Carnegie Foundation of 240,000 florins, covering a period of six years.

**Sir Charles Webster** (United Kingdom) said he was sure the Supervisory Commission had done all that was possible and there seemed to be no alternative but to accept its recommendation. He quite understood that every institution must maintain its rights. At the same time, he could not help regretting that the Trustees had not shown some disposition to agree to a compromise. Clearly the Commission thought the League was entitled to a reduction for that part

of the building which could not be used during the war, and *prima facie* that would seem to be the case. He must therefore express regret that it had not been found possible to obtain at least some small reduction in what appeared to be a very considerable sum.

*The recommendation of the Supervisory Commission was adopted.*

**M. François** (Netherlands) said that he had some remarks to make with regard to the observations of the Rapporteur of the Supervisory Commission and Sir Charles Webster. As a Trustee of the Carnegie Foundation, he had attended all the negotiations to which reference had been made, and he would like to remove a misunderstanding with regard to the attitude adopted by the Foundation.

There had been no reduction in the maintenance charges of the Palace because the Court had been unable to meet during the war. It had always been at the disposal of the Court, and the Acting President, as well as the Netherlands staff of the Registry, had continued their work. The small savings it had been possible to make had been greatly exceeded by the increase in maintenance charges, which were far higher than before the war.

No Government represented at The Hague had asked for any reduction in the rent of an Embassy or Legation which had remained empty during the war. The Court of Arbitration, also a tenant of the Foundation, had claimed no reduction in its contribution, but it would no doubt ask to be treated on the same footing as the League of Nations if the latter succeeded in obtaining a reduction.

The League and the Court of Arbitration having suspended payment, the Foundation had been compelled to touch its capital, and if the arrears were not paid, it would be obliged to increase considerably the annual payment of future tenants of the Palace.

The balance of the Andrew Carnegie Donation, after the construction of the buildings had been completed, had not been sufficient for the maintenance of the Palace and the Library. That was why the Foundation was obliged to ask its tenants for annual payments which were very carefully calculated and included no reserves. Any considerable reduction in interest on capital would therefore have to be met by an increase in rent.

The United Nations, however, would not agree to any increase in rent which might become necessary if the Foundation were unable to obtain satisfaction from the League. In these circumstances, the Foundation, which was not inspired by any desire for gain but solely by the desire to accomplish the mission entrusted to it, could not agree to make any concession, however much it might wish to display generosity.

**The Chairman** pointed out that a decision had already been taken and he did not see the need for further discussion.

He was not sure whether M. François had been speaking as a delegate or as a Carnegie Trustee; but the Committee could only—he thought—take into consideration remarks coming from members speaking as national delegates.

## FOURTH MEETING

Friday, April 12th, 1946, at 12.30 p.m.

Chairman: Sir Atul CHATTERJEE (India).

15. — COMPLAINT OF CERTAIN FORMER OFFICIALS OF THE GOVERNING COMMISSION OF THE SAAR TERRITORY<sup>1</sup> (continuation)

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, said that the Commission had made a full report on this subject, which had engaged its close attention throughout the war period. The officials in question had no legal claim, the sums they had already received being in the nature of compassionate grants. As would be seen from the Commission's report, they had only served for a comparatively short period and had received substantial payments. After a thorough examination of the legal and moral claims put forward, the Commission recommended that no further action should be taken in the matter.

**M. Charveriat** (France) observed that this question had been before the League for a long time. It should also be borne in mind that the League was on the verge of liquidation and ought not to leave any matters outstanding without having at any rate made an effort to clear them up. Rightly or wrongly, the complaint of these officials had been accepted and fully considered and the case had even been thought worthy of submission to the Permanent Court of International Justice. Possibly the delegates might feel that certain technical aspects of the case, though in actual fact straightforward enough, should still be examined within the Committee. In view of the technical nature of these legal questions and the unimportance of the case, a small committee of three or four legal experts might be asked to examine it and inform the Committee what, in their view, were the arguments involved.

**M. Kaeckenbeeck** (Belgium) had intended to make a similar proposal to that put forward by the French delegate. He seriously doubted the advisability of merely letting the complaint of the Saar officials drop seeing that arrangements had been made for its submission to the Permanent Court. The fact that the latter no longer existed, and that circumstances beyond the control of the League had prevented the Court from dealing with the question while it was still in existence, did not strike him as a conclusive argument for doing nothing more about it. Undoubtedly several jurists were of opinion that the League had every right to believe that legally it had no financial responsibility in this matter. When it decided to ask for an opinion from the Permanent Court, it was mainly anxious to get a precise definition of the limits of its financial responsibility. Though, so far as the League was concerned, this aspect of the case had lost much of its importance since the League was about to be liquidated, there were nevertheless other aspects which were of some importance.

There could be no doubt that from the point of view of the complainants an extremely unfortunate impression would be created if the League were to take advantage of the disappearance of the Permanent Court to avoid a decision. It was desirable that an endeavour should be made

to avoid this impression and to clear the matter up before the League was finally liquidated.

Actually the Committee was dealing with a lawsuit which had been acknowledged as such, had passed the initial stages, and could not be dropped without being settled in some way or other. There were several ways to choose from. Some other court might be selected in place of the Permanent Court, or it could be cleared up during this Assembly; no doubt many of the delegates would prefer not to have this case dragging on any longer. Consequently, some of the eminent jurists present might be asked to study the dossier and deliver a judgment or at any rate an opinion as to whether some further compensation remained to be assessed, or whether the case could be considered, from a legal viewpoint, closed. Or again the Assembly might, after a study of the dossier, itself take the responsibility of giving judgment on what it regarded as the established facts in the case, but that would be rather a difficult task for delegates to undertake in view of the mass of documentary evidence involved.

For these various reasons, he was in favour of the solution suggested by the French delegate.

**Sir Charles Webster** (United Kingdom) supported the proposal of the Belgian and French delegations. A sub-committee of three legal experts would certainly be able to give an opinion promptly and dispose of the question in a way which would satisfy everybody.

*The proposal of the French delegation was adopted.*

**The Chairman** suggested that the sub-committee should consist of M. Nihad Erim (Turkey), M. François (Netherlands) and M. Kaeckenbeeck (Belgium), and that it should report on the following day.

**M. Kaeckenbeeck** (Belgium) thanked the Chairman for having put forward his name. Some years ago, however, he had been asked by the League to give an advisory opinion on the question, which he had done. His opinion on the matter was therefore known and appeared in the file. The small sub-committee which it had just been decided to appoint would be in the nature of a judicial body. In the circumstances he was obliged to decline the invitation, as the rôle of judge would be incompatible with that of counsel which he had been formerly asked to accept.

**The Chairman** felt, on the contrary, that M. Kaeckenbeeck would have been particularly well qualified to be a member of the sub-committee in view of his knowledge of the case. At any rate in Anglo-Saxon countries, a judge of the original court was often also a member of the appellate court. Perhaps Sir Hartley Shawcross might be willing to be appointed in place of M. Kaeckenbeeck.

**Sir Charles Webster** (United Kingdom) said that Sir Hartley Shawcross was at the moment too busy with other duties. He proposed Mr. Egeland (Union of South Africa).

**The Chairman** said the sub-committee would then consist of Mr. Egeland, M. Nihad Erim and M. François.

<sup>1</sup> Document A.15.1946.V (Annex 22, page 241).

## FIFTH MEETING

Saturday, April 13th, 1946, at 10.30 a.m.

Chairman: Sir Atul CHATTERJEE (India).

16. — REFUGEE QUESTIONS: LIQUIDATION OF THE NANSEN OFFICE<sup>1</sup>

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, said there was very little to add to the statement in Chapter B of the Report of the Supervisory Commission on the Work of its Hundred-and-second Session.<sup>2</sup>

The question of the liquidation of the Nansen Office had engaged the attention of the Supervisory Commission from time to time, and they had recently been in correspondence with the Liquidator. Certain delays had arisen out of the difficulty of communications during the war, and the Supervisory Commission was unfortunately not in a position to place a final solution of the matter before the Second Committee. It could only recommend that it be remitted to the Board of Liquidation which it was proposed should be set up on the dissolution of the League.

*The recommendation of the Supervisory Commission was approved.*

## 17. — AUDITED ACCOUNTS FOR THE TWENTY - SEVENTH FINANCIAL PERIOD (1945) AND THE RELEVANT PASSAGE IN THE REPORT OF THE SUPERVISORY COMMISSION

*The audited accounts for the twenty-seventh financial period (1945) and Chapter C in the Report of the Supervisory Commission on the Work of its Hundredth Session<sup>3</sup> were approved.*

## 18. — TERMINATION OF THE LEAGUE OF NATIONS: MEASURES TO BE TAKEN FOR THE DISPOSAL OF LEAGUE ASSETS

## (a) SCHEME OF DISTRIBUTION

**The Chairman** opened the discussion on Chapter F of the Report of the Supervisory Commission on the Work of its Hundred-and-first Session.<sup>4</sup> He pointed out that at its meeting on April 12th, the First Committee had discussed a draft Assembly Resolution for the Dissolution of the League of Nations<sup>5</sup> which had a bearing on the same subject. It had been remitted to the Second Committee for consideration and report. If there was no objection, the two documents might be taken together, so that all the relevant questions could be discussed at the same time.

*The Chairman's suggestion was approved.*

**The Chairman** said that the First Committee had agreed, subject to the approval of the Second Committee, that the Chairmen of the two Committees should meet to make proposals concerning the membership of a small committee to go

into the question of appointing a board of liquidation. They had as yet had no opportunity of meeting, and he would therefore ask that the matter be left open for the time being.

*The Committee approved the procedure proposed.*

**The Chairman** invited the Rapporteur of the Supervisory Commission to comment on the opening passage of Chapter F of the Report of the Commission—Measures to be taken for the Disposal of League Assets—which should, he said, be taken together with paragraph 1 of the draft Assembly Resolution.

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, said that as a result of the discussion between the representatives of the League and of the United Nations, it was agreed on both sides that the League Assembly should, at its current meeting, deal with the question of the distribution of the assets of the League in accordance with percentages to be laid down by the Assembly.

It would be appreciated that in 1946 contributions would continue to be received and commitments to be discharged. It was therefore not possible, at the present stage, to give a precise schedule of percentages. For this reason, it had been necessary to state the nature of the scheme in general terms only. A provisional schedule of the contributions of the Member States in relation to the total contributions received by the League had been worked out and could be produced if required, but it would have to be modified when the liquidation was virtually completed.

In this way effect had been given, he thought, as far as was humanly possible, to the agreement between the representatives of the two organisations.

*The first three paragraphs of Chapter F of the Supervisory Commission's Report, together with paragraph (1) of the draft Assembly Resolution, were approved.*

**The Chairman** invited the Rapporteur of the Supervisory Commission to open the discussion on the Scheme of Distribution proposed by the Commission. He pointed out that paragraphs 6, 7 and 8 of the draft Resolution remitted to the Second Committee by the First Committee dealt with the same questions.

The Supervisory Commission had suggested a new text for the last few lines of paragraph 6 which would be found in the Report of the Supervisory Commission on the Work of its Hundred-and-second Session.<sup>1</sup>

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, said he hoped the Scheme of Distribution was quite clear and would not give rise to much dispute or criticism. The simplest procedure would be for him to run through it, paragraph by paragraph.

Paragraph (1), on the payment of contributions, both arrears and current, called for no comment.

On paragraph (2)—Participation in the Assets of the League—he thought he should say, for the sake of completeness, that the Supervisory Commission had received, through the Acting

<sup>1</sup> Document A.19.1946.X, Chapter D (Annex 6, page 168).

<sup>2</sup> Document A.28.1946.X (Annex 8, page 180).

<sup>3</sup> Documents C.15.M.15.1946.X; and A.19.1946.X (Annex 6, page 168).

<sup>4</sup> Document A.25.1946.X (Annex 7, page 176).

<sup>5</sup> For final text of this resolution, see document A.32(c).1946.X (Annex 26, page 270).

<sup>1</sup> Document A.28.1946.X (Annex 8, page 180).

Secretary-General, a letter from a State which was no longer a Member of the League—which had left the League after discharging all its debts—asking whether its claim to a share of the assets could be revived. The view of the Supervisory Commission was succinctly expressed in its Report. The recommendation they made was that only States at present Members of the League should share in the assets.

Paragraph (3) dealt with the method of participation. That had been carefully considered with the United Nations. It had been arranged in full agreement with the representatives of that organisation—which was the heir of the material assets of the League—that credits should be given to States Members for their share of the material assets of which a valuation was to be established by the two organisations. The Supervisory Commission proposed that the allocation as between League Members should be in proportion to the contributions paid during the whole period of the League's existence. The same practice would naturally be followed with regard to the liquid assets. That made it possible to work out a percentage table, and the States which had made the largest contribution would be entitled to a larger share in the value of the assets. For this purpose, the material assets were to be valued on a cost price basis. If this proposal commended itself to the Members of the Assembly, the United Nations might be congratulated on acquiring at cost price assets which, if they were constructed or acquired under present conditions, would cost a great deal more than the charge they were being asked to accept—and which they had expressed their readiness to accept.

In addition, the gifts which were being presented to the United Nations—most valuable gifts given by many Member States, artistic treasures which would be regarded with admiration in ages to come—would be handed over without cost.

Under paragraph (4) it was proposed that arrears should be brought into account before the final division of the assets was settled. That would probably commend itself to Members, especially those who had no arrears.

Paragraph (6) required some explanation. It dealt with the position of Members of the League who would not be Members of the United Nations on December 31st, 1946. It was hoped that in the process of time—the shorter the time the better—the United Nations would become a universal association. But the Supervisory Commission had had to take account of the possibility that when the liquidators came to divide the assets, there might be some Members of the League who were not yet in the United Nations. In order, as far as possible, to equate the treatment of all, it was suggested that their share in the material assets of the League should be held in suspense or otherwise dealt with under arrangements to be made by the liquidating authorities in agreement with the States concerned.

Should it become necessary to give non-members of the United Nations but Members of the League cash instead of credits in the books of the United Nations—and for this purpose cash and credits in the books of the United Nations were equal to one another—the Treasurer might be faced with excessive demands for cash payments. In that case there would be no alternative but to make *pro rata* adjustments.

As stated in paragraph (7), it was proposed that non-material assets be distributed in cash when the final calculations had been established, that was to say, when all the debts had been discharged

and all the contributions collectable at the date at which the liquidation was undertaken had been brought into account.

In order to keep everybody on a parity in regard to the material and liquid assets, the disposition of these matters under paragraph (8) would not become fully effective until the liquidation authorities were in a position to present final audited accounts.

There was no doubt that whoever was responsible for carrying through this important financial transaction would require to have the final computations duly audited. That would not take long, but it was a necessary preliminary to a businesslike winding-up of any institution.

Paragraph (9) provided that if there were any unforeseen matters with which the liquidation authority was called upon to deal, it might take whatever decisions it deemed most expedient, provided the Scheme of Distribution was adhered to.

**M. Pastoriza** (Dominican Republic) drew the Committee's attention to the proposal of the President of the Dominican Republic with regard to the transfer of the assets of the League.<sup>1</sup> In doing so, he ventured to recall the old dreams of unity and peace and the common dedication of the nations to the cause of mankind. This cause had never been surrendered through all the hours of hope and disappointment.

The President of the Dominican Republic asked that three-fourths of the existing cash assets of the League should be made as a grant in favour of the humanitarian objects of U.N.R.R.A. and the remaining fourth contributed to the Columbus Lighthouse Memorial Fund for a monument to commemorate the discoverer of America, as well as the spirit of international co-operation.

He also asked that the landed property of the League be presented to the Government of the United States for the purpose of setting up the World Health Office which that Government was desirous of establishing.

These suggestions were in accordance with the intentions for which the League was created. If they were approved, the melancholy task of winding up the Organisation would be transformed into a generous act which would bring relief and hope to mankind.

**The Chairman** asked whether any delegation wished to second the Dominican proposal.

*There being no seconder for this proposal, it was rejected.*

**Mr. Glenvil Hall** (United Kingdom) said he was delighted to have arrived in time to take part in the discussion on the disposal of the League assets and to comment on the plan set forth by the Supervisory Commission.

Their task must have been a very difficult one. But he, for one, believed they had produced a plan which would be generally acceptable. It followed the line of common sense and seemed fair and just to all concerned. He was glad to think the Commission had realised that the new organisation was following the present organisation and that although the League was coming to an end, many of its tangible assets and some of the gifts which were presented to it would find a place in the rooms and council chambers of the United Nations. He commended the scheme to his fellow delegates as one they should accept.

<sup>1</sup> Document A.II.1946 (Annex 17.II, page 220).

**M. Charveriat** (France) said he had one observation to make on paragraph (2) of the Scheme of Distribution. A case arose which was outside the sphere of book-keeping. It was that of the Union of Soviet Socialist Republics. There was no need for him to recall that the Soviet Union had left Geneva in circumstances quite different from those in which any other State had withdrawn. The French delegation thought that at the time of its dissolution the League would be acting equitably if it were to consider the possibility of allowing the Soviet Union, which had played so great a part in the war, to participate in the assets.

**The Chairman** asked whether any delegation wished to support the French proposal.

*There being no seconder for this proposal, it was rejected.*

**Mr. Glenvil Hall** (United Kingdom) said he would like to make a few observations on the matter raised by the French delegate.

**The Chairman** said he was sorry but he had already declared the matter closed.

*The Scheme of Distribution, together with paragraphs 5, 6, 7 and 8 of the draft Resolution on the Dissolution of the League as amended by the Supervisory Commission, were approved.*

(b) WORKING CAPITAL FUND AND OTHER FUNDS<sup>1</sup>

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, said that the Working Capital Fund was in a different position from the other funds administered by the Treasurer inasmuch as it did not belong to the League as a whole, but was the property of individual Members in a certain proportion according to their contributions. This Fund served a very valuable purpose as a kind of cushion which was available while subscriptions were coming in; it had been used for financing the Secretariat, the International Labour Office and the Court, pending the receipt of contributions. Any drafts on it were made good in subsequent budgeting. When the League ceased to exist, there would still be need for the International Labour Organisation to have such a fund. It was therefore proposed that the balance of this Fund should be made over to the International Labour Organisation on the understanding that it would be used in the same way as hitherto, and would continue to remain the property of the various States.

As regards the Reserve Fund, the whole amount would be recovered before the liquidation was completed, and it was suggested that it should be paid over to the Staff Pensions Fund. It had been lent to the Staff Provident Fund. Mme. Kluyver had drawn attention to the possibility that the Pensions Fund would want a little stiffening, and the proposed transfer would give it that stiffening.

It was proposed to apply the same procedure in the case of the Fund to cover Exchange Losses.

Full explanations would be found as regards Extra-budgetary Accounts in Chapter IV of the Annex, and it was proposed that so far as possible those funds should continue to serve the purposes for which they were established.

**Mr. Knowles** (New Zealand) asked why the Supervisory Commission had decided to transfer not a part but the whole of the Working Capital Fund.

**The Treasurer** said that the Working Capital Fund was divided proportionately among the

three organisations, but during the war a large proportion of the Fund was used to cover the deficit, and it now amounted to 3 millions out of a nominal fund of 6½ millions. The position, however, was that the States which were in arrears owed the League more than it owed them from the Working Capital Fund. The balance in the Fund was about 3 millions, and that was the proportion to which the International Labour Organisation was entitled. If this sum was paid over to the Organisation, it would be enabled to keep its contract with each State which was in good standing with the League.

*There being no further comments, the proposals contained in the Annex to document A.19.1946.X were approved.*

19. — COMPLAINT OF CERTAIN FORMER OFFICIALS OF THE GOVERNING COMMISSION OF THE SAAR TERRITORY (continuation): REPORT BY THE SUB-COMMITTEE<sup>1</sup>

**M. Nihad Erim** (Turkey), Rapporteur of the Sub-Committee, explained that the Sub-Committee had examined the case submitted to it from three standpoints. Firstly, had the League any legal or financial obligation towards the complainants? Secondly, should the complainants be granted a further *ex gratia* payment? Thirdly, how was the case affected by the Council's decision of 1939?

As regards the first point, the Sub-Committee had sought to ascertain whether there had been a contract between the League and the complainants. Neither in the Treaty of Versailles, nor in the Covenant, nor in the Staff Regulations, had it been able to discover any provision which might place the League under a legal or financial obligation towards them. It had therefore concluded that no such obligation existed.

As regards the second point, it had noted that the League had already made the complainants an *ex gratia* payment.

As regards the third point, it had taken into consideration the fact that in 1939 the Council had decided to consult the Permanent Court of International Justice. In view, however, of its conclusion on the first point, it seemed to the Sub-Committee that it would now be quite superfluous to ask for an advisory opinion because there was no obligation towards the complainants. Though the Council had decided to obtain expert legal opinion, the Sub-Committee did not feel, now that the Permanent Court had disappeared, that it could recommend to the Assembly any fresh consultation of jurists or arbitral. In its view, it was for the Second Committee to take a decision in the matter.

**The Chairman** thanked the Sub-Committee and its Rapporteur for the promptitude and efficiency with which they had performed their task. As regards paragraph 3 of their Report, he reminded the Committee that by an Assembly decision the Assembly now had all the powers which the Council of the League used to have, and as the Second Committee's report would go to the Assembly, that body could take any action which might be necessary.

**Mr. Egeland** (Union of South Africa) feared that paragraph 3 of the Sub-Committee's report was a rather negative and unhelpful one. The reason was that the Sub-Committee was not unanimous on the question whether, in spite of the findings under paragraphs 1 and 2, the petitioners should

<sup>1</sup> Document A.19.1946.X, Appendix (see Annex 6, page 169).

<sup>1</sup> For text of this report, see document A.32(1). 1946.X (Annex 26, page 264).

be deprived of the right to resort to the independent opinion of an outside tribunal. His own view was that it was not desirable to resort to such a tribunal, but the Sub-Committee was not unanimous and felt that the decision should be left to the full Committee.

**M. Kaackenbeeck** (Belgium) said that until he had heard the explanation relative to paragraph 3 of the report, he had wondered whether that paragraph was not to some extent contrary to the purpose for which the Sub-Committee was established, namely, the substitution for the Permanent Court of International Justice of some other authority to give a decision on a legal issue. The explanations furnished by the Rapporteur and Chairman of the Sub-Committee had shown that any contradiction was one of form rather than of substance and in those circumstances the Belgian delegation had no further question to raise.

**M. Charveriat** (France), referring to the points mentioned by the delegate of South Africa, wondered whether the third point of the Sub-Committee's Report should not be interpreted as indicating that it was for the Second Committee to suggest the appointment of some authority to settle this question, either a single arbitrator or a panel of three. Though the case was not a particularly serious one, it was not wholly unimportant, since it had been submitted to the Permanent Court.

Quite apart from the merits of this particular case, they had to consider the general question which might possibly, at some later date, be raised in similar form before the United Nations. In the opinion of the French delegation, it was extremely important that, in terminating its work, the League should dispel any impression that it had appointed a judge but that the case had never been tried.

**M. François** (Netherlands) said the Netherlands delegation agreed with the Supervisory Commission that the former officials of the Governing Commission of the Saar had been treated more than generously. Consequently, in his opinion, this question need not have been raised again, had it not been for the Council's decision in 1939 to submit it to the Permanent Court. The reason the Council made that decision was that it felt the League ought not to be judge in its own cause. Because the officials who felt themselves injured by that decision had no other means of redress, the Council declared its willingness to submit the matter to the Permanent Court.

The fact that the Permanent Court had now disappeared was no justification for reversing the Council's decision of principle to allow an appeal to an impartial tribunal. The Netherlands delegation could not accept the argument that the changed situation since 1939 warranted any deviation by the League from the line of conduct adopted by the Council. In any organisation, whether national or international, continuity in the direction of affairs must be regarded as extremely important and the Council's decision should be respected by its successors in the conduct of the League's affairs. In these circumstances, the Netherlands delegation would be prepared to grant the complainants the right to appeal to arbitration on the points which would have been submitted to the Permanent Court.

**M. Friis** (Denmark) stated that on grounds of principle the Danish delegation shared the opinion of the French and Netherlands delegations.

**The Chairman** said that there had been no proposals as to who should be the arbitrator and how the arbitration should be conducted. He suggested that the Rapporteur should refer in his report to the Assembly to the fact that there was a proposal for the appointment of an arbitrator, and it should be for the Assembly to decide whether to appoint an arbitrator or not. The Second Committee had done the best it could. It had appointed a sub-committee consisting of three jurists who were in no way connected with the Supervisory Commission but absolutely independent, and they had given their opinion that there was neither a moral nor a legal ground for this claim.

*The Chairman's proposal was adopted.*

20. — **GRANT OF A WINTER ALLOWANCE TO THE LOWER CATEGORIES OF THE GENEVA STAFF**

*Chapter E of the Supervisory Commission's Report on the Work of its Ninety-ninth Session<sup>1</sup> was adopted without discussion.*

21. — **INTERNATIONAL LABOUR ORGANISATION BALANCES FOR 1941, 1943 AND 1944**

*Chapter F of the Supervisory Commission's Report on the Work of its Ninety-ninth Session<sup>1</sup> was adopted without discussion.*

22. — **VOLUNTARY CONTRIBUTION OF THE STAFF**

*The Committee took note of Chapter D of the Supervisory Commission's Report on the Work of its Hundred-and-first Session.<sup>2</sup>*

23. — **INDEMNITIES TO EMPLOYEES**

*Chapter E of the Supervisory Commission's Report on the Work of its Hundred-and-first Session<sup>2</sup> was adopted.*

24. — **TERMINATION OF THE LEAGUE OF NATIONS: MEASURES TO BE TAKEN FOR THE DISPOSAL OF LEAGUE ASSETS (continuation)**

**M. Rosner** (Poland) submitted the following draft resolution on behalf of the Polish and Czechoslovak delegations:

"The Second Committee,

"Considering that the circumstances in which the Union of Soviet Socialist Republics was led to cease to be a Member of the League of Nations cannot be compared with those which have led any other State to withdraw from the League;

"Considering that it would be equitable to associate with the final settlement a nation whose contribution to the victory of the free countries and to the constitution of the new world has been fundamental;

"Decides to appoint a sub-committee for the purpose of studying in what form the Union of Soviet Socialist Republics might be included amongst the Powers participating in the liquidation of the assets of the League of Nations."

*On the proposal of M. Kopecký (Czechoslovakia), Vice-Chairman, the Committee decided to study this draft resolution at its next meeting.*

<sup>1</sup> Document A.14.1946.X (Annex 5, page 163).

<sup>2</sup> Document A.25.1946.X (Annex 7, page 176).

## SIXTH MEETING

Saturday, April 13th, 1946, at 4 p.m.

Chairman: Sir Atul CHATTERJEE (India).

## 25. — WELCOME TO AUSTRIAN OBSERVERS

The Chairman welcomed two observers appointed by the Austrian Government in accordance with the Assembly's resolution.<sup>1</sup>

M. Schwarzenberg thanked the Chairman for his welcome on behalf of the Austrian Government and the Austrian people, who were conscious of their obligations to the principles which had guided the League of Nations and would guide the United Nations in the future.

26. — ADMINISTRATIVE TRIBUNAL: JUDGMENTS GIVEN ON FEBRUARY 26th, 1946, WITH REGARD TO CLAIMS OF CERTAIN FORMER OFFICIALS (continuation): REPORT OF THE SUB-COMMITTEE TO THE SECOND COMMITTEE<sup>2</sup>

Sir Hartley Shawcross (United Kingdom), Rapporteur of the Sub-Committee, said that although he was a lawyer he approached this matter on the broad basis of what was politic and right rather than on the basis of what might be strictly in accordance with the law. There was in fact no law which applied to a case like this. There was no other institution like the League of Nations; there was no precedent for such a problem, and there were few basic principles of law which had any direct application to its solution. Fortunately, however, lawyers were not always compelled to look at matters with complete disregard of the principles of common sense. If the Committee tried to apply some strict rule of law, it would doubtless get an infinite variety of opinion and endless debate. Hence he hoped that the matter would be discussed from the broadest point of view.

The real problem was whether the Assembly, by the decision which it took in the grave emergency of December 1939 to reduce the staff and to dismiss a large number of officials, with a shorter notice than that to which they were entitled under the Staff Regulations existing at that time, acted outside its powers. If the League of Nations were a troupe of travelling actors or a tramway company, or a municipal corporation, there would be no doubt at all that this action was contrary to law. But the League of Nations was an organisation of the sovereign States of the world, and as such it had an entirely peculiar status and the matter must be dealt with on that basis.

Although the League of Nations established the Administrative Tribunal which eventually gave a decision in favour of the officials who had been dismissed, there was no doubt that the League could have abolished that Tribunal without regard to the existing contracts of the League's officers. In fact, in 1927 the League had taken almost precisely similar action by doing away with the officials' right of appeal to the Council.

<sup>1</sup> See page 49.

<sup>2</sup> For the text of this report, see document A.32.(1).1946.X (Annex 26, page 261).

The League of Nations was a sovereign body, not being subject to the control of any superior body or any definite courts. Whether the Administrative Tribunal existed or not, no decision given against the League could be enforced. The conclusion was that the Assembly was entitled, by way of legislative act, to take such decisions in relation to its staff as it thought right.

This power was no novelty to municipal law, for in every country of the world the State had an inherent power to disregard the contracts into which it had entered if, in the interests of the State, this appeared desirable. It could pass a law to say particular contracts were no longer obligatory, and it could do so without regard to vested rights and interests. This power would not of course be used in normal circumstances, and the safeguard against abuse was the political safeguard: no Member State would allow a derogation of the rights of employees unless circumstances made it necessary. In 1939, circumstances did necessitate this, and the Sub-Committee felt that the Assembly had power to take that decision, and the Administrative Tribunal was bound by the Assembly's decision.

The Administrative Tribunal had based its decision on two grounds. In the first place, it maintained that it was entitled to disregard the decision of the Assembly because the Assembly had no right to arrive at that decision. The Sub-Committee thought this fundamentally wrong and considered it a matter of importance that the status of the Assembly should be maintained. But in the second place the Tribunal fortified itself with a conclusion of fact to the effect that the resolution passed by the League in 1939 was not intended to apply to those officials in whose cases its application would have involved a breach of contract. The Sub-Committee most emphatically held the view that here the Tribunal was absolutely wrong. The resolution adopted by the League in 1939 was perfectly clear in its terms and the only possible conclusion was that the Tribunal felt that its decision on the legal aspects was so open to question that it had to fortify itself on the decisions of fact.

The Chairman thanked the Sub-Committee for its prompt and careful report on a very difficult and complicated question, and particularly Sir Hartley Shawcross for the lucid explanation he had given.

M. Kaeckenbeeck (Belgium) said that, whilst admiring the luminous statement made by Sir Hartley Shawcross, he had been greatly struck by several arguments in the Sub-Committee's report with which he could not agree. First of all, there was the constitutional and legal aspect of the relations which existed, on the one hand, between two organs of the League of Nations—namely, the Assembly and the Administrative Tribunal—and, on the other, between the League and its officials.

It would seem to follow from the report that, according to the Sub-Committee, the Assembly, the organ of one of the parties to a dispute, had the right to oppose the execution of a judgment of which it did not approve. That was a principle which appeared to be absolutely contrary to the notion of law and the sovereignty of law. In his

opinion they should ask themselves whether the Assembly, taking the view that certain of the Tribunal's interpretations were inaccurate, had the right to oppose the execution of a judgment of the Administrative Tribunal.

The Assembly might, as Sir Hartley Shawcross had observed, have abolished the Administrative Tribunal, but advantage could not be taken of a hypothesis which had not come to pass in order to refuse to execute a judgment rendered by the Tribunal. If they were prepared to do that, there had been no object in establishing an Administrative Tribunal, and they might as well have left the League of Nations and its officials to settle matters among themselves. When the Administrative Tribunal was established, the power of interpreting questions of law and of determining the legal relations between the League and its officials, which had previously been attributed to the Council, a political organ, had been transferred to the Tribunal, a judicial organ. If, therefore, the Tribunal was invested with the power of interpretation, it followed that its interpretations were operative.

In paragraph 5 of the report, the problem did not appear to have been stated as it ought to have been. The question was not whether the Assembly was competent to render operative a judgment of the Administrative Tribunal, but whether the Assembly was competent to prevent the execution of a judgment of the Tribunal when the said judgment had been rendered in a matter in respect of which the competence of the Tribunal was not contested.

By refusing to execute a judgment which displeased it, the League of Nations would be gravely violating the rules of law and of the sovereignty of law and such action would have extremely serious repercussions in an international organisation in which constant efforts had been made to substitute law for force. The intention in transferring to the Tribunal the former judicial powers of the Council had, in fact, been to substitute judicial decisions for decisions of a political nature.

Sir Hartley Shawcross had expressed the view that, within the framework of the League of Nations, there was not really any law governing the case. That statement did not seem to be accurate, inasmuch as the contract entered into between the League of Nations and its officials constituted a legal relationship and the Assembly had established a judicial organ competent to interpret that contract — namely, the Administrative Tribunal.

It would be absurd to agree to execute only those judgments which were rendered in favour of the League of Nations; yet that would be the result if it were admitted that the Assembly had the right and the power to decide that judgments should not be executed because it did not approve the reasons invoked by the Tribunal.

Sir Hartley Shawcross and the Sub-Committee had attached great importance to the fact that the Assembly of the League of Nations might be compared to a legislative assembly which, within a State, had the power, in certain circumstances, to modify contracts. That analogy, however, was not quite pertinent, for the Assembly was not a legislative assembly and it could not be compared with the legislature of a State. In a State there were a legislative power, a judicial power, and the subjects of the State. In the case of the international organisation, the organs of the League were dealing with persons who were strangers to them, with whom they concluded a contract which gave rise to a legal relationship. The officials of the League of Nations were not the subjects of the international organisation but co-contracting parties.

Even in States possessing sovereign rights which it was impossible to attribute to the As-

sembly, no court had the right, when the legislative power modified contracts, to interpret those modifications retrospectively, unless the new law contained express provisions to that effect.

As the Administrative Tribunal had not been prepared to apply the modifications of the contract retrospectively, the Assembly, according to the Sub-Committee, was entitled to refuse to execute the judgment. To admit that argument would be the negation of law. It was a conception which the Belgian delegation could not accept.

The question, which was very complex, had arisen largely out of a sort of conception of necessity. Necessity, however, could not be invoked at the present time even if, at the moment when the Assembly took its decision, it was extremely important to effect economies.

In conclusion, he drew the attention of his colleagues to the very serious consequences which might follow from the adoption of the principles he had criticised.

After it had constituted a Secretariat which had done excellent work and at a moment when a new organisation of States was being created, was the League of Nations going to run the risk of disregarding every legal rule by adopting principles which no State would adopt and which it would be impossible to enforce in any State without the general public gaining the impression that the standpoint of law was being completely abandoned in favour of political arbitrariness? The Belgian delegation could not vote in favour of the report submitted to the Committee.

**M. Grafström** (Sweden) said that he desired to state that the Swedish delegation was in complete agreement with the views of the Belgian delegation.

**M. François** (Netherlands) stated that, in the opinion of the Netherlands Government, the League of Nations was bound to carry out the Administrative Tribunal's decision. International jurisdiction, indeed, made no provision for sanctions, but it was to the credit of the international community that States, almost without exception, had accepted judicial or arbitral decisions, and that very few of them had refused to bow before a final award. It would be extremely regrettable if the League of Nations, at the moment when it was about to disappear, were to figure among those exceptions. The Sub-Committee was of opinion that the Tribunal's decision was at fault, but that argument could not be advanced, because one of the first principles of justice was that nobody could be at the same time judge and party to litigation. Fortunately, the Sub-Committee had refrained from invoking the argument that the Tribunal was not competent, for incompetence had always been invoked by States which wished to escape a decision unfavourable to themselves. The Sub-Committee was further of opinion that the action taken by the Secretary-General was justified by a decision of the Assembly and that being so the Tribunal should have dismissed the claim. It was not for the Committee to examine the merits of the award, for the League of Nations, even if it were sovereign, was itself a party to the dispute. An appeal might have been lodged if the Statute provided for such recourse, but, in the circumstances, it only remained for the League to bow to the decision of the competent judges. The execution of the judgment would be a heavy burden on the League, but it was better to lose money than to injure not only the prestige of the League but also the cause of international jurisdiction.

If it contented itself with carrying out the Tribunal's decision, the League would keep strictly within the limits of the award, that is to say, it would pay the prescribed compensation

to those to whom the decision applied. With regard to the others, the League of Nations, refraining from expressing an opinion as to the merits of the decision, was under no obligation—not even a moral one—to grant them the same treatment.

The Netherlands delegation took the view that good sense should be applied in settling international affairs, but it was precisely good sense which demanded that an organisation like the League of Nations should set an example in the matter of respecting an award, even if it considered the decision unjustified.

**M. Watteau** (France) said he had little to add to the very strong arguments advanced by Sir Hartley Shawcross. Those arguments were entirely in conformity with the opinion expressed by the French delegation in the Sub-Committee. If the Administrative Tribunal's decision was recognised as being valid, equity would demand that its application should be extended to officials who had not lodged a complaint and, *a fortiori*, to officials still in the service, who might lodge a similar complaint. If that were done, it would involve very important financial consequences and that fact constituted a subsidiary justification for the commonsense attitude recommended by Sir Hartley Shawcross. Legally, the Tribunal's judgment should not be recognised as valid. Practically, a decision to the contrary would entail consequences which it would be difficult to entertain.

Nevertheless, if, as the Report suggested, the Supervisory Commission were to consider the granting of their expenses to officials who had lodged a complaint in good faith, that solution would seem to be entirely reasonable to the French delegation.

**M. Kopecky** (Czechoslovakia), Vice-Chairman, stated in his capacity as Chairman of the Sub-Committee that the fundamental question seemed to him to be the following. The Administrative Tribunal had declared itself competent to pass judgment even on decisions of the Assembly. On the other hand, it might be maintained that the Assembly had never intended to confer such a power on the Tribunal. The fact that the Statute contained no definite clause on that subject could not be interpreted in the way the Tribunal had interpreted it.

He had followed closely the statement made by the Belgian delegate, in whose view the Tribunal was competent to give judgment upon a dispute between the League and its officials, but he himself thought that the matter should be put otherwise. It was the duty of the Tribunal to deliver judgment on disputes between the Administration of the League and officials. In point of fact, the Tribunal had been constituted by the Assembly for the purpose of watching over the exact execution of its decisions. He and his colleagues on the Sub-Committee held that the competence of the Tribunal could not be extended to cover the decisions of the Assembly itself. The Assembly could change the constitution of the Tribunal and could even abolish it. The Tribunal was therefore subordinate to the Assembly and could not bind it by invoking a decision which it had taken at an earlier date. For the reasons he had given, he was able, in all conscience, to support the legal view put forward by the Rapporteur of the Sub-Committee, whilst regretting that the desires of some officials would not be satisfied.

**Sir Hartley Shawcross** (United Kingdom), Rapporteur of the Sub-Committee, replying to the previous speakers, said that the Sub-Committee fully recognised the importance of conferring on international officials a measure of security at least equal to that enjoyed by members of national services. The conclusion reached by the Sub-Committee did not carry the consequence that an international official had no contractual

rights, but merely that the League of Nations possessed residuary powers which were supreme, that was to say, that in the last resort it was the League and not the Tribunal which was the master. But this power ought not to be exercised, and obviously would not be exercised, so as to set aside rights and vested interests, except in extreme circumstances such as those which existed in 1939. The question as to when it should be exercised was a matter of policy and not of legal power.

If he had been arguing this case in a local county court, he would have been in complete agreement with all the propositions advanced by his colleagues. But this was not the case, and he thought they were in danger of falling into the error of judging this matter by ordinary canons of municipal law as enforced in ordinary municipal courts. Such principles were largely inapplicable to a case of this kind unless the Assembly was content to place itself on the same basis as an ordinary municipal corporation. Such a basis would be contrary to the law and to the facts. The Assembly corresponded more to the sovereign body than to the ordinary commercial trading corporation, and it was in that field of law that this matter had to be considered.

It was the inherent right of every sovereign legislature that somewhere in the Constitution there should exist the power to disregard contracts which turned out to be contrary to the interests of the State. If this were not so, some private vested right could stand in the way of the interests of the people and the State.

The Belgian delegate had said that the law to be applied was the law of the contract between the League of Nations and its officials. But the law of contract was interpreted differently in every country. If this contract had been concluded in Britain, it would certainly have been overridden in the circumstances which had prevailed.

Another question was that of the other officials who had not appealed. When this decision was taken by the Assembly in 1939, it affected several hundred people, of whom all but twelve had loyally accepted it. They had no doubt done so in the belief that it would apply equally to all. If the Committee took the view that the twelve or thirteen officials who had challenged the decision were to be paid this considerable sum of money, it would be very difficult in equity to refuse the claims, although legally they were out of time, of the hundreds of officials who stood by the League in the times of emergency of 1939: it would cost some four million francs but it could be done and ought to be done.

The Committee was, however, concerned not only with justice to these individuals but also with the status of the Assembly. It was of profound importance to uphold the legal and diplomatic immunity acquired both for the League and for the United Nations and to maintain their high and special status.

**Professor Bailey** (Australia) said that at the conclusion of a long and close discussion in the Sub-Committee, he had found it necessary to reserve the position of the Government of Australia. For that reason, he had thought it proper not to participate in the discussion in the full Committee.

**M. Kaeckenbeeck** (Belgium) said that he would like to clear up a passage in his previous statement which seemed to have been misinterpreted. In the course of his remarks he had said that Sir Hartley Shawcross had expressed the view that within the framework of the League of Nations, there was not really any law governing the case. His reply to that was that there was a law, and that law was the contract. Sir Hartley had then spoken of the law of the contract. That would, however, be the law according to which the contract must be interpreted. What he had

meant to say was that the legal relationship in question was a contractual relationship. That was, in fact, what was said in the report of the Committee of Jurists which had considered in 1932 the right of the Assembly to make a unilateral reduction in the salaries of the officials.

**M. de Blanck** (Cuba) thought that the two views were already sufficiently known. They might still be discussed at length. It was time to take a vote.

**The Chairman** fully approved the suggestion. He asked the Committee whether it was prepared to accept the recommendations made by the Sub-Committee. He drew particular attention to paragraph 10 of the report. If the report was adopted, the suggestion contained in that paragraph might be carried out by the Board of Liquidation, the setting-up of which was contemplated.

The vote would be taken by roll-call at the request of the Belgian delegate.

*The result of the voting was as follows:*

4 delegations were absent (Afghanistan, Dominican Republic, Ecuador, Panama);

16 delegations voted in favour of the adoption of the report (Union of South Africa, Argentine, Bolivia, United Kingdom, Canada, China, Cuba, Egypt, Finland, France, India, Ireland, Mexico, New Zealand, Czechoslovakia, Turkey);

8 delegations voted against the adoption of the report (Belgium, Denmark, Luxemburg, Netherlands, Poland, Sweden, Switzerland, Uruguay).

5 delegations abstained from voting (Australia, Greece, Norway, Portugal, Yugoslavia).

*The report was adopted.*

27. — **TERMINATION OF THE LEAGUE OF NATIONS: MEASURES TO BE TAKEN FOR THE DISPOSAL OF LEAGUE ASSETS (continuation): DRAFT RESOLUTION SUBMITTED BY THE DELEGATIONS OF POLAND AND CZECHOSLOVAKIA<sup>1</sup> (continuation)**

**The Chairman** said that he did not intend to open a discussion on the merits of the proposal of the Polish and Czechoslovak delegations, as he

thought members of the Committee should have time to consider it. It would be discussed at the next meeting, but in the meantime he would be willing to allow any delegation who wished to do so to make a short statement.

**M. Helo** (Finland) said that the Finnish delegation supported the draft resolution. In view of the circumstances, it hoped that this proposal would receive favourable consideration.

**M. Charveriat** (France) stated that the French delegation supported the Polish and Czechoslovak proposal.

**M. Jaksić** (Yugoslavia) said that the Yugoslav delegation fully associated itself with the draft resolution. He had been detained elsewhere when, at the morning meeting, the delegate of France had made his proposal. He hoped that the Committee would unanimously support the draft resolution—the more so as, during the proceedings of the Assembly, many distinguished speakers and the President himself had paid tribute to the Russian and other peoples of the Soviet Union whose enormous efforts and sacrifices had made it possible for all the delegations to sit that day in peace.

**M. Grimm** (Switzerland) raised a point of order. The Committee had before it a draft resolution which was general in scope and which related to questions that were not confined to those before the Second Committee. The First Committee had decided, on the previous day, to propose the setting up of a joint committee to consider problems connected with liquidation. In M. Grimm's opinion, the draft resolution should be referred to that joint committee. The latter would decide one way or the other, but the discussion of the matter did not seem to come within the province of the Second Committee, which was limited in its scope.

**The Chairman** thought that the consideration of M. Grimm's suggestion, in favour of which much might perhaps be said, might be adjourned to the next meeting, jointly with the discussion of the question as a whole.

## SEVENTH MEETING

Monday, April 15th, 1946, at 3.30 p.m.

Chairman: Sir Atul CHATTERJEE (India).

28. — **DRAFT ASSEMBLY RESOLUTION FOR THE DISSOLUTION OF THE LEAGUE OF NATIONS<sup>2</sup>**

**The Chairman** announced that he had received the following letter from the Chairman of the First Committee:

"The First Committee, which has had before it the draft resolution on the dissolution of the League of Nations presented by the British delegation, has decided to examine only the Preamble and Articles 1, 4 (1), 9 and 10 of the draft, since the other articles fall within the competence of the Second Committee.

"The First Committee will communicate

to you as soon as possible the revised text of the Preamble and of the articles examined by it. It refers the other articles at once to the Second Committee."

(The Committee then proceeded to examine paragraphs 11 to 19 of the draft Resolution item by item, bearing in mind the amendments suggested by the Supervisory Commission in its Report on the Work of its Hundred-and-second Session.<sup>1</sup>)

*Paragraphs 11, 12, 13 and 14 (1), and sub-paragraphs (i) and (ii) of 14 (2) were adopted without observations.*

PARAGRAPH 14 (2), SUB-PARAGRAPH (iii)

**Mr. Glenvil Hall** (United Kingdom) pointed out that this sub-paragraph made no provision for the appointment of new judges to fill any va-

<sup>1</sup> See page 129.

<sup>2</sup> For the final text of this resolution, see document A.32(1).1946.X (Annex 26, page 269).

<sup>1</sup> Document A.28.1946.X (Annex 8, page 180).

cancies that might occur. He suggested that such vacancies might be filled by the Board of Liquidation.

*On the Chairman's proposal, it was agreed that the United Kingdom delegation would submit an amendment on this subject later. (See below.)*

*Paragraph 14 (3), (4), (5) and paragraph 15 (1) (a) were adopted without discussion.*

#### PARAGRAPH 15 (1) (b)

**Professor Bailey** (Australia) pointed out that at a previous meeting the Committee had decided that the Reserve Fund and the Fund to cover Exchange Losses should be transferred to the Pensions Fund.<sup>1</sup> He suggested that these were measures of liquidation which belonged to this resolution, and should be mentioned here.

The Working Capital Fund had already been dealt with in paragraph 19 but some mention should also be made in the resolution of the decision taken regarding extra-budgetary accounts.

*It was agreed that these suggestions should be taken into account by the Rapporteur.*

*Paragraph 15 (1) (b) was adopted on this understanding.*

*Paragraphs 15 (1) (c), (d) (as amended by the Supervisory Commission), 15 (2), 16, 17 (1), 17 (2) (as amended by the Supervisory Commission), 17 (3), 18 (1) and (2), and 19 (with a slight drafting change) were adopted without discussion.*

#### PARAGRAPH 2 (1)

**The Acting Secretary-General** said that the Administration had been giving the closest attention to the problems involved in a rapid liquidation of the League, not only during the past few weeks but for more than a year. The Assembly had already solved most of the major problems, but this solution consisted in taking broad general decisions and laying down the principles which must be followed. When the Assembly resolution was passed, the old League would cease to exist and its political and general duties would disappear. But the main work of liquidation would still remain to be done, and for months to come the present activities of the Secretariat would have to be carried on until the United Nations and the League had made the necessary joint plans for the proper transfer of all the activities which the former was prepared to take over. The activities that were not taken over would have to be liquidated.

Within the next couple of weeks, for example, there would be a meeting of the Permanent Central Opium Board and the Opium Supervisory Body, with the consequent necessary secretariat work. Special studies were now in hand in the Financial, Economic and Health Sections. The ordinary publications and statistics of the Health and Economic organs must continue to appear in order to maintain the continuity required. Then there were special studies that were almost ready for the printers, some of which would be very useful for work about to be undertaken by the United Nations or its specialised agencies. It was also intended to complete the *Treaty Series* and to hand over a neat and finished job in that important field. The staff, except for those engaged for the Assembly period, would largely continue its activities.

<sup>1</sup> See page 123.

That was a picture of the work in front of the Secretariat and would be one of the elements to be studied by the Board of Liquidation, which would have to keep in the closest touch with this kind of technical work. It was now necessary to consider some means of nominating that Board. The Supervisory Commission, which had been doing this work for so long, would cease to exist that week. It had carried the burden through the war and the Governments had shown complete confidence in what it had done in the most difficult circumstances. Its work was now going to be handed over to the Board of Liquidation, and he believed that a considerable degree of continuity between the personnel of the Board and of the Supervisory Commission would be extremely useful if not indispensable.

**The Chairman** said that the procedure proposed for the appointment of the Board of Liquidation was that the Chairmen of the First and Second Committees should discuss the matter with their own officers, and the two Committees together should then appoint a joint sub-committee.

**Mr. Glenvil Hall** (United Kingdom) said he took it there was a proposal that the Board of Liquidation should consist of the same members as the Supervisory Commission. While he appreciated the importance of ensuring continuity in the work of these two bodies and had the greatest admiration for the members of the Supervisory Commission, he had been somewhat taken by surprise by this proposal and therefore approved the suggestion that a joint sub-committee should be appointed. The Board of Liquidation would be an extremely important body and the most careful consideration should be given to its composition.

**Mr. Cremins** (Ireland) expressed the hope that use would be made of the wide experience of the members of the Supervisory Commission.

**The Chairman** said that it was not his understanding that any proposal had been made that the membership of the Board of Liquidation should be identical to that of the Supervisory Commission. The Secretary-General had merely drawn attention to the need for a measure of continuity. He himself had not yet discussed the matter with his officers and proposed an adjournment of half-an-hour in order to give him an opportunity to do so.

*This suggestion was approved.*

On the resumption of the meeting, **the Chairman** said that the Officers of the Committee had reached a unanimous conclusion as to the names of the delegations which should be submitted for inclusion in the joint sub-committee of the First and Second Committees.

He was unable to place those names before the Committee at once, however, as he had been unable to consult the Chairman of the First Committee, which he desired to do in order to prevent overlapping and conflict.

#### PARAGRAPH 14 (2) (iii)

**The Chairman** said that the British delegation proposed the following text for paragraph 14 (2) (iii):

“(iii) The terms of office of the judges and deputy judges who were in office on January 1st, 1940, are prolonged until April 1st, 1947,

and thereafter until otherwise decided by the appropriate organ of the International Labour Organisation. Any vacancy which occurs during the period in question shall be filled by the said organ."

He understood from the representative of the International Labour Organisation that there would be no objection to this wording.

**M. Kaeckenbeek** (Belgium) said he would like to be sure that the text of the amendment did not restrict the right of a member of the Tribunal to decline to have his term of office prolonged, should he so desire.

**Mr. Glenvil Hall** (United Kingdom) said that his amendment did not imply any such restriction. If necessary, the wording could be changed so as to make it clear that the judges were free to retire.

**M. Kaeckenbeek** (Belgium) said he had only desired to have an explanation: he had raised no objection to the amendment. The reply given to him by Mr. Hall showed that they both took the same view of the matter.

**The Chairman** said that note would be taken of this exchange of observations in the Committee's report to the Assembly.

He took the opportunity to thank the judges and members of the Administrative Tribunal for their good and faithful service. They had lately had a difficult case to settle; the Committee had disagreed with their findings, but nevertheless

held them in the highest esteem and hoped they would continue to serve.

*Paragraph 20 was approved without discussion.*

**The Chairman** pointed out that only paragraphs 2, 3 and 4 (2), which concerned the Board of Liquidation, had still to be dealt with. It would be convenient to take these paragraphs after the joint sub-committee had made its report.

*The Committee approved of this procedure.*

29. — **TERMINATION OF THE LEAGUE OF NATIONS: MEASURES TO BE TAKEN FOR THE DISPOSAL OF LEAGUE OF NATIONS ASSETS (continuation): DRAFT RESOLUTION SUBMITTED BY THE POLISH AND CZECHOSLOVAK DELEGATIONS<sup>1</sup> (continuation)**

**The Chairman** said that he had given this subject much thought and was of the opinion that the best course would be to appoint a sub-committee to deal with it and to report as soon as possible. He hoped that in this way this delicate problem could be settled amicably and without controversy. Delegates would have an opportunity to express their views on the merits of the question when the sub-committee's report was submitted. He proposed that the sub-committee should consist of the following members: Mr. Hume Wrong (Canada), M. Helo (Finland), M. Charveriat (France), Mr. Glenvil Hall (United Kingdom), M. Nogueira (Uruguay).

*This proposal was adopted.*

## EIGHTH MEETING

Tuesday, April 16th, 1946, at 10 a.m.

Chairman: Sir Atul CHATTERJEE (India).

30. — **FINANCIAL POSITION OF THE LEAGUE AS AT MARCH 31st, 1946, AND REPORT OF THE SPECIAL COMMITTEE ON CONTRIBUTIONS<sup>1</sup> (continuation)**

**M. Aghnides** (Greece) explained that he had not taken part on the discussion in contributions in general and contributions in arrears in particular because he had been engaged in negotiations with the Chairman of the Contributions Committee.

Greece had for some years appeared on the list of States which had not paid their contributions. There was no need for him to devote much time to the reasons for this. They were numerous and the position had been aggravated by the aggression of Germany and Italy, as well as of their satellites and accomplices, Bulgaria and Albania. To the ravages of war there must be added the heavy costs of occupation and the iniquitous system of extraordinary monthly credits which the invaders had imposed on Greece and which had enabled them to strip the country by "purchasing" everything they had to purchase while paying nothing for it. In addition,

<sup>1</sup> Documents A.20.1946.X (Annex 12, page 209), and C.10.M.10.1946.X (Annex 11, page 195).

the Greek mercantile marine—which was the main resource of Greece—had been almost entirely destroyed, nearly 80% of the shipping having been sunk.

The Chairman of the Contributions Committee had recently drawn his attention to the situation and they had entered into negotiations. The former had made specific proposals in the light of the facts just referred to, which M. Aghnides had cabled to his Government. He was glad to be able to say that the Greek Government had fully accepted without any discussion the terms of the arrangement proposed.

He was glad to take the opportunity to thank the Committee and the Secretary-General for the very generous spirit of understanding they had shown with regard to the difficulties which Greece was experiencing at the present time.

**The Treasurer** said that since the Report on the Financial Situation of the League had appeared, the following new developments had occurred.

Finland had paid 150,000 Swiss francs and had announced her intention of paying the balance in June. Honduras, a former Member of the League, had paid the whole of her consolidated arrears. Portugal had paid her contribution for 1945. The League had received the whole of the con-

<sup>1</sup> See page 129.

tribution due from Turkey. Half of Uruguay's contribution had been received. The other half had been erroneously paid to the United Nations but steps had been taken to recover it.

**The Chairman** asked whether the contributions of the Argentine and China had been received. He explained that he asked this question because the Government of India was keenly interested in this subject.

**The Treasurer** said that they had not.

**Dr. Bello** (Argentine) said that instructions had been received to pay on the basis of correspondence exchanged with the Chairman of the Supervisory Commission, and he expected to sign the agreement that day.

**Dr. Lone Liang** (China) said that an agreement had been reached on the subject between M. Hambro and M. Wellington Koo, Chinese Ambassador in London, during the United Nations Assembly, and funds had been sent to the Imperial Bank of Canada at the beginning of April. This appeared to be a mistake as the League had no account at that bank, although it had one at the Royal Bank of Canada at Montreal. He had sent a telegram asking for an explanation, and was awaiting a reply.

**The Treasurer** said that the essence of the arrangements for reduced payments was that they should be made immediately. He was not sure the arrangements would still stand otherwise.

**M. Rosner** (Poland) said that he had already announced that his Government would pay its

reduced contribution as agreed. It would not, however, be possible to pay before the end of the session owing to exchange difficulties. He would take steps to expedite the matter on his return to Warsaw.

31. — **DRAFT ASSEMBLY RESOLUTION FOR THE DISSOLUTION OF THE LEAGUE OF NATIONS (continuation): APPOINTMENT OF A JOINT SUB-COMMITTEE OF THE FIRST AND SECOND COMMITTEES**

**The Chairman** said that the officers of the First and Second Committees had consulted together and unanimously proposed that the joint Sub-Committee should consist of the following members:

Second Committee: the delegates of Poland, Turkey, United Kingdom, Uruguay and the Chairman.

First Committee: the delegates of Canada, China, France and the Chairman.

With this composition, a wide diversity of political and geographical interests would be represented, as would the largest contributors. The Sub-Committee's terms of reference would be to examine the whole of paragraphs 2 and 3 and paragraph 4 (2) of the draft resolution and to report back to the main committees as soon as possible.

*This proposal was adopted.*

## NINTH MEETING

Tuesday, April 16th, 1946, at 5 p.m.

Chairman: Sir Atul CHATTERJEE (India).

32. — **TERMINATION OF THE LEAGUE OF NATIONS: MEASURES TO BE TAKEN FOR THE DISPOSAL OF LEAGUE ASSETS (continuation): REPORT OF THE SUB-COMMITTEE ON THE PROPOSAL MADE BY THE FRENCH DELEGATION AND THE DRAFT RESOLUTION SUBMITTED BY THE POLISH AND CZECHOSLOVAK DELEGATIONS**

**M. Nogueira** (Uruguay), Chairman of the Sub-Committee, submitted the following report:

"The Sub-Committee examined the problems which would be raised by altering the scheme already approved by the Second Committee for the distribution of the assets of the League. It found that any change in the scheme so as to provide for the inclusion of the Union of Soviet Socialist Republics in this distribution would create technical difficulties of so serious a character as to be practically insurmountable.

"The Sub-Committee, however, feels that the Second Committee might well show its approbation of the essential purpose of the proposal made by the French delegation and

of the draft resolution submitted by the Polish and Czechoslovak delegations and that the Assembly would wish to place on record its recognition of the fundamental contribution of the Soviet Union to the overthrow of the Fascist enemies of civilisation and to the triumph of freedom, and to welcome the collaboration of the Soviet Union in building, on the foundations so successfully laid, the new edifice of international solidarity."

He expressed his satisfaction at the friendly spirit shown in the Sub-Committee, which had adopted the report unanimously.

**M. Rosner** (Poland) said that as a promoter of the draft resolution discussed by the Sub-Committee, he fully supported the conclusions of the report. He would be glad, however, to know whether the Committee intended to submit to the Assembly a draft resolution placing on record recognition of the fundamental contribution of the Soviet Union to the overthrow of the Fascist enemies of civilisation.

**The Chairman** suggested that, if the report of the Sub-Committee was adopted, the Rapporteur of the Committee should include a resolution in her report. That resolution would be approved

by the Committee and would then go to the Assembly as part of the report.

**M. Ristić** (Yugoslavia) pointed out that in the first part of its report the Sub-Committee had stated that any change in the scheme for the distribution of the assets of the League would create technical difficulties of so serious a character as to be practically insurmountable.

That would be the case if the Soviet Union had voluntarily withdrawn from the League, but the position was quite different. In fact, the Soviet Union had left the League against its will and had never renounced its right to participate in any distribution of the League's assets. Consequently, that part of the assets to which the Soviet Union was entitled still belonged to it, even though it was no longer a Member of the League.

The Yugoslav delegation wholeheartedly associated itself with the proposal to place on record recognition of the fundamental contribution of the Union of Soviet Socialist Republics to the overthrow of the Fascist Powers which were the greatest enemies of civilisation and of mankind, as well as the most formidable adversaries of the League of Nations.

If the Members of the League were unanimous in their desire to recognise the contribution of the Soviet Union, it was only fair and equitable for them also to renounce that part of the assets of the League which belonged to that country.

**The Chairman** put the report of the Sub-Committee to the vote.

*The report was approved by twenty-six votes without dissent.*

## TENTH MEETING

Wednesday, April 17th, 1946, at 11 a.m.

Chairman : **M. KOPECKY** (Czechoslovakia), Vice-Chairman.

### 33. — EXAMINATION OF THE DRAFT GENERAL REPORT OF THE SECOND COMMITTEE TO THE ASSEMBLY<sup>1</sup>

**Mme. Kluyster** (Netherlands), Rapporteur, said she would like first of all to thank the Secretary-General for lending the Second Committee, and its Rapporteur in particular, the valuable assistance of Mr. Bieler, who had been a pillar of the Finance Committee since 1922.

The draft report contained a number of draft resolutions which had not yet been voted on by the Committee. They dealt with questions of secondary importance and she had thought it best to incorporate them in a summary of the Committee's discussions.

The document was divided into five chapters, the most important of which was the last, relating to the dissolution of the League of Nations. The Committee might perhaps discuss the various chapters one by one and she would make observations on each of them in turn.

#### I. INTRODUCTION

*The introduction to the report was adopted without discussion.*

#### II. ACTIVITIES AND GENERAL RECOMMENDATIONS OF THE SUPERVISORY COMMISSION

**Mme. Kluyster** (Netherlands), Rapporteur, said this chapter contained two draft resolutions which had not yet been voted on by the Committee. The first was a mere summary of the discussions on the work of the Supervisory Commission, such as had always appeared in the reports of the Fourth Committee.

The second draft resolution expressed the Assembly's gratitude to the various American institutions which, during the war, had supported the League's technical services. This had seemed to her worth commemorating in a draft resolution.

<sup>1</sup> For the final text of this report, see document A.32(1).1946.X (Annex 26, page 258).

The third draft resolution was identical in character with the first.

**Sir Charles Webster** (United Kingdom) said he would like to take this opportunity of expressing his Government's appreciation of the work done by the Supervisory Commission, to which the present sound position of the League was largely due. He paid a special tribute to the Chairman, M. Hambro, to the Rapporteur, Sir Cecil Kisch, and to the Secretariat.

He also wished to associate himself most warmly with the resolution of thanks to Princeton University.

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, thanked the United Kingdom delegate for what he had said and added his own tribute to M. Hambro. During these difficult years, the members of the Supervisory Commission had been conscious that they were keeping alive something of durable value, which would live again in a new shape.

*Chapter II was adopted.*

#### III. FINANCIAL POSITION OF THE LEAGUE AND CONTRIBUTIONS IN ARREARS

*Chapter III was adopted with a few minor amendments suggested by the Rapporteur.*

#### IV. STAFF QUESTIONS

*A. Judgments pronounced by the Administrative Tribunal on February 26th, 1946, concerning Certain Officials discharged in Application of the Emergency Measures adopted by the Assembly in 1939.*

**Mme. Kluyster** (Netherlands), Rapporteur, explained that she had found it impossible to summarise more briefly the discussion on this particularly difficult question.

**M. Kaeckenbeeck** (Belgium) congratulated Mme. Kluyster on the impartiality of her summary of such a complicated debate. He did not wish to reopen this discussion, on which a vote had already been taken, but wanted only to say that

he intended to make a very short statement on the subject in the Assembly when the report came up for examination.

*Section A of Chapter IV was adopted.*

**B. *Complaint of Certain Former Officials of the Governing Commission of the Saar Territory.***

**Mme. Kluyver** (Netherlands), Rapporteur, said she was not entirely satisfied with the text of the final paragraph of this section, which read as follows:

"As no proposal has been made with regard to the choice of an arbitrator, if one is to be appointed, or with regard to the procedure to be followed in the matter of arbitration, the Assembly alone can take a decision on these points."

She had tried to make the text of this section faithfully reflect the discussion and the Chairman's observations, but perhaps the last paragraph should be drafted in a more satisfactory manner.

**M. Charveriat** (France) pointed out that a sub-committee had been appointed to study the matter. It seemed to him that the above sentence merely made it clear that the Committee was not giving an answer to the question. As regards method, he agreed with the Rapporteur's remark and felt that some suggestion should be made even if no conclusion were reached.

On the other hand, the matter in itself was of slight importance and it was perhaps scarcely necessary that it should be debated by the Assembly. However, on re-reading the report of the Sub-Committee<sup>2</sup>, he felt that while it had given a legal explanation under point No. 1, it had failed to provide an opinion to take the place of that which the matter had appeared to warrant from the Permanent Court; for under point No. 3 the Sub-Committee had considered whether the legal question originally submitted to the Court should be put to an arbitral body. The Sub-Committee had thus not settled the question of recourse to an arbitral body, which still remained unanswered.

He still felt the Committee should make some suggestion. The affair, though of very little material consequence, was important in view of the fact that a question which had been regarded as deserving submission to The Hague should not be disposed of simply by passing it over. He wished to stress the advisability of putting it to an arbitrator, or, alternatively, of allowing the Board of Liquidation to settle it—whichever course appeared the more equitable.

**Mme. Kluyver** (Netherlands), Rapporteur, did not think the past history of the Assembly provided any precedent for the procedure followed in dealing with this question. She felt that, as Rapporteur, she was not in a position to suggest a solution. It was for the various delegations to do so.

**Sir Cecil Kisch**, Rapporteur of the Supervisory Commission, agreed that the position was rather ambiguous, and it was difficult to know what to do unless the Committee was prepared to re-examine its previous ruling. The Sub-Committee's Report consisted of three clauses: the first said there was no juridical claim; the second referred to the fact that certain compassionate allowances had been paid; and the third seemed to suggest that a further enquiry was to be undertaken.

It seemed to him that the matter had been referred to the present Committee as an alternative to the Court. It had been adequately established that there was no juridical claim, and his personal opinion was that the matter should be regarded as closed.

**M. Charveriat** (France) did not entirely agree with Sir Cecil Kisch. On re-reading point No. 1 of the Sub-Committee's report, he did not feel

that the latter had settled the legal question, as it had felt obliged to end its third point with the words: "...the Sub-Committee considered whether it might be advisable to put to an arbitral body the legal question previously put to the Court". The question had thus been left intact by the Sub-Committee. If the Committee felt unable to decide spontaneously that the matter should be referred to an arbitrator, a suitable practical solution for this small affair might perhaps be to give the liquidators power to submit the question to the opinion of an arbitrator chosen by them, in order that there should be a decision and that a case which was to have gone to the Permanent Court should not be purely and simply dismissed.

**The Chairman** reminded the delegates that during the discussion he had observed that nobody had proposed an arbitrator, and had considered that the matter was closed as far as the Committee was concerned. Perhaps the report should mention that, as no member of the Committee had suggested that an arbitrator be appointed, the Committee, for all practical purposes, regarded the question as closed.

**Mme. Kluyver** (Netherlands), Rapporteur, was fully prepared to comply with the Chairman's suggestion but wondered whether it would be fitting for this question, of very little importance in itself, to be raised at the final meeting of the Assembly. As Rapporteur, she was rather in favour of asking whether delegations now intended to put forward a proposal. From a formal point of view, the discussion was closed, but perhaps delegations might be given that opportunity in view of the exceptional character of the affair.

**The Chairman** pointed out that they had already had that opportunity when the report was being discussed.

**M. Nihad Erim** (Turkey), speaking in his capacity as Rapporteur of the Sub-Committee, said that after the last meeting he had believed the matter to be closed. As a result of the French delegate's remarks, however, he felt he should offer a few explanations. As stated in point No. 1, the Sub-Committee had declared that the League could not be regarded as being under a financial obligation to the complainants. However, the Sub-Committee had had to take into account the decision of the Council in 1939, and bearing that decision in mind, they had left the third point in suspense. The Chairman of the Sub-Committee and he himself were personally of the opinion that there was no need to have recourse to an arbitrator and that the question should be regarded as closed. M. François, on the other hand, had insisted on the third point, and the members of the Sub-Committee had agreed on a compromise whereby the decision upon that point was left to the Committee. He (M. Erim) stressed the fact that the Sub-Committee was unanimously of the opinion that the League had no financial responsibility towards the complainants.

**Sir Charles Webster** (United Kingdom) said that while he was reluctant to alter the report, he did not want such a trivial point to be discussed in the Assembly. It had been proposed to refer the matter to the Court because no other means was available at the time. The Second Committee had provided an alternative. The Sub-Committee had decided there was no legal ground for the claims, and the Committee was entirely within its rights in acting on this decision. He consequently moved the addition of the following sentence to the report:

"The Committee therefore recommends that the Assembly should take no further action in this matter."

**Mr. Egeland** (Union of South Africa) seconded this proposal. As Chairman of the Sub-Committee he confirmed the Turkish delegate's explanation. The majority of the Sub-Committee had felt that no recourse was necessary, but in deference to the minority, they had left the decision to the full Committee, in the expectation that it would settle the matter finally.

**Mme. Kluyver** (Netherlands), Rapporteur, said she was ready to include the United Kingdom delegation's amendment in the report if the Committee so wished.

**M. Charveriat** (France) thought the simplest solution of this problem would have been to leave the Board of Liquidation to obtain an opinion from an arbitrator; he confined himself to maintaining the point of view he had previously expressed.

*Section B of Chapter IV was adopted as amended by the United Kingdom delegation.*

#### V. DISSOLUTION OF THE LEAGUE OF NATIONS

**Mme. Kluyver** (Netherlands), Rapporteur, explained that as regards their form the problems dealt with in this chapter had also been discussed

in the First Committee. In particular, the resolution appearing at the end of the chapter had been examined in the First Committee and only its financial and administrative aspects had been discussed by the Second Committee. That procedure was admittedly somewhat exceptional. She wished to thank Professor Bailey, Rapporteur of the First Committee, and to mention that by agreement with him it had been arranged that this resolution should be incorporated in the Second Committee's Report.

As regards its substance, this chapter was quite exceptional in that it recorded an act marking the end of the League, a state of affairs which obviously had never been dealt with in any other report.

**Mr. Cremins** (Ireland) proposed that the words "in agreement with the Administrative Board of the Staff Pensions Fund" should be deleted from Section B, as the matter had not yet been considered by the Board.

*This proposal was adopted.*

*Chapter V, Sections A, B, C and D down to the end of paragraph (9) were adopted with various amendments.*

## ELEVENTH MEETING

Wednesday, April 17th, 1946, at 3.30 p.m.

Chairman: Sir Atul CHATTERJEE (India).

### 34. — DRAFT ASSEMBLY RESOLUTION FOR THE DISSOLUTION OF THE LEAGUE OF NATIONS (continuation): APPOINTMENT OF A BOARD OF LIQUIDATION: REPORT OF THE JOINT SUB-COMMITTEE OF THE FIRST AND SECOND COMMITTEES

The Chairman said that the joint Sub-Committee had agreed that for the prompt and efficient conduct of the Board's business and having regard to the importance of its work, the number of the members of the Board should be limited to nine.

The Sub-Committee had further agreed that a combination of the following factors should be taken into account in considering candidatures for nomination to the Board: (a) the desirability of providing for continuity in the financial and administrative work of the League after the disappearance of the Supervisory Commission; (b) the personal qualifications and experience necessary for membership of the Board; (c) the financial standing *vis-à-vis* the League of the country to which the candidate belonged and the financial contribution made by the candidate's country throughout the years of the League's existence, due regard being paid to the special situation of certain countries which had specially suffered from occupation during the war; (d) the need for as wide a geographical representation as possible on the Board.

Taking all these points into consideration, the Sub-Committee had unanimously elected as members of the Board three members of the Supervisory Commission—M. Hambro, Sir Cecil

Kisch and M. Charveriat—and also he himself Sir Atul Chatterjee. A secret ballot was taken on the remaining candidates, as a result of which M. Cheng (China), M. Costa du Rels (Bolivia), Mr. Jacklin (Union of South Africa) (with effect from August 1st, 1946), M. Kopecky (Czechoslovakia) and M. Secretan (Switzerland) were elected. The Sub-Committee accordingly recommended that the Second Committee should pass a resolution inviting the Assembly to appoint to the Board of Liquidation the nine members he had just mentioned.

*This proposal was approved.*

The Chairman said that the Joint Sub-Committee had examined paragraphs 2, 3 and 4 (2) of the draft resolution together with the modifications suggested by the Supervisory Commission in the Report on the Work of its Hundred-and-second Session<sup>1</sup> and proposed a certain number of amendments in the light of the above proposal.<sup>2</sup>

#### PARAGRAPH 2, SUB-PARAGRAPH 6

**M. Kaeckenbeeck** (Belgium) feared that the Board of Liquidation might continue to function for an indefinite period and suggested that some procedure was needed to bring it to an end.

The Chairman replied that it was provided in paragraph 9 that the Board should make interim reports every three months and take into consideration any observations thereon made by Members of the League. Moreover, paragraph 7 provided

<sup>1</sup> Document A.28.1946.X (Annex 8, page 179).

<sup>2</sup> See document A.32(1).1946.X (Annex 26, page 269) for the final text.

that any cash balance resulting from the liquidation should be divided among Members, and Members would naturally want to have this money as soon as possible. Lastly, the nine members of the Board had been chosen with great care, and were not likely to want to go on functioning longer than they were needed. For all these reasons, he thought M. Kaeckenbeek's apprehensions unjustified.

**M. Kaeckenbeek** (Belgium) said that he had had no idea of making any reflections on the members of the Board. There was, however, no provision for winding up the Board before every detail had been settled. Could this be done by means of a proposal made by the Board itself in one of its quarterly reports?

**The Chairman** said he thought the matter was sufficiently covered by the provision in paragraph 9 that the Board must take into consideration any observations of Members of the League and that of paragraph 21 stating the circumstances in which the Board should declare itself to be dissolved.

#### PARAGRAPH 3

**Mr. Cremins** (Ireland), referring to this paragraph which dealt with the mandate of the Secretary-General, said that the Irish delegation wished to say a few words to express their regret that one of the results of the liquidation of the League would be the retirement of Mr. Lester from the position which he had so ably, conscientiously and honourably filled for six years. Since he was first appointed in Geneva seventeen years ago as representative of the Irish Government, Mr. Lester had had occasion to handle many international problems of a complex and delicate nature. He had handled them all in the same satisfactory way, calmly and courageously, always devoted to the great institution to which he was first accredited and later attached. It was obvious long before

the end of the League had become inevitable that his eminent services in the international sphere had been widely appreciated. The Irish delegation wished to place on record the appreciation of their Government of the devoted service which Mr. Lester had given to the League and of his tenacious faith in the ultimate success of international collaboration.

*Paragraphs 2, 3 and 4 (2) of the draft resolution with the amendments proposed by the joint Subcommittee were adopted.*

#### 35. — EXAMINATION OF THE DRAFT GENERAL REPORT OF THE SECOND COMMITTEE TO THE ASSEMBLY<sup>1</sup> (continuation)

*The latter part of the report was adopted with various amendments.*

#### 36. — FINANCIAL POSITION OF THE LEAGUE AS AT MARCH 31st, 1946, AND REPORT OF THE SPECIAL COMMITTEE ON CONTRIBUTIONS<sup>2</sup> (continuation)

**M. Nogueira** (Uruguay) said that the sum placed to the credit of the United Nations owing to a banker's error<sup>3</sup> had now been transferred to the League of Nations.

#### 37. — CLOSE OF SESSION

After the usual expressions of thanks, **the Chairman** declared the session closed.

<sup>1</sup> For the final text of the Report, see document A.32(1).1946.X (Annex 26, page 258).

<sup>2</sup> Documents A.20.1946.X (Annex 12, page 209) and C.10.M.10.1946.X (Annex 11, page 195).

<sup>3</sup> See page 117.