CHAPTER IV

DEVELOPMENTS IN THE LAWS OF WAR BETWEEN THE TWO WORLD WARS

A. THE COVENANT OF THE LEAGUE OF NATIONS

The Covenant of the League of Nations(1) sought to eliminate war, but it stopped half-way. It did not outlaw war, but, by means of Articles 12, 13 and 15 it endeavoured to delay the outbreak of wars, by insisting on the submission of disputes likely to lead to war to arbitration or judicial settlement.

Under Article 11 any war or threat of war was declared to be a matter of concern to the whole League, and it was the friendly right of each member of the League to bring to the attention of the Assembly or the Council any situation likely to disturb peace or international understanding. Under Article 12 the members of the League agreed to submit to arbitration or judicial settlement any dispute between them which might lead to rupture, and agreed not to resort to war until three months after the award had been given. Article 13 set up the machinery for the settlement of disputes by arbitration; the Permanent Court of International Justice was set up under Article 14, and action in the event of disputes not submitted to arbitration was dealt with by Article 15. In this latter case, the dispute was to be referred to the Council of the League, which would endeavour to effect a settlement of the dispute. If the dispute was not settled, the Council might publish a report containing a statement of the facts and the recommendations made in regard thereto. Though, in Article 13, members agreed to abide by the award or judicial decision, under Article 15 there was no compulsion to act on the Council's report. Moreover, under paragraph 7 of Article 15 it was laid down that if the Council of the League could not reach a unanimous decision, after the failure of other attempts at settlement under the other Articles of the Covenant, "the members of the League reserve to themselves the right to take such action as they may consider necessary for the maintenance of right and justice."

This paragraph was the notorious gap in the Covenant by which any war, even an aggressive one, could be waged within the bounds of legality. However, as a deterrent against war, Article 16 contained provisions for the use of "sanctions," and Article 17 laid down machinery for action by the League in the event of a dispute with a non-member of the League likely to lead to hostilities.

The first occasion on which the Covenant of the League was brought into use as a means of preventing hostilities was in 1921(2) when, after a prolonged dispute between Albania and the Serb-Croat-Slovene State, Yugo-Slav forces crossed the frontier of Albania. The British Government called the attention of the Council to the situation, and demanded the

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application of sanctions under Article 16, if the Serb-Croat-Slovene State refused to execute its obligations under the Covenant. Yugoslav troops were consequently withdrawn from Albania and the risk of a serious Balkan war was averted.

In 1923, following the murder of the Italian General Tellini on Greek soil, when the Italian forces bombarded and then occupied the island of Corfu, the Greek Government appealed to the Council under Articles 12 and 15, while the Italian Government referred the matter to the Conference of Ambassadors, at that time sitting in Paris. The affair was solved by the Conference of Ambassadors passing to the Greek Government for acceptance, terms suggested to it by the Council(1).

Again in 1925 a dangerous situation on the Graeco-Bulgarian frontier was saved from developing further by the prompt action of the Council. Hostilities in this case opened with a skirmish round a frontier post, as a result of which a Greek Army Corps invaded Bulgarian territory. On the day the Greek troops entered Bulgaria, the Bulgarian Government appealed to the Council, which met four days later, but, in the meantime, the President of the Council sent telegrams to both Governments asking them to refrain from further hostilities. As a result of this appeal, the Greek Government ordered its troops to cease fire; hostilities thus terminated, and a satisfactory conclusion was reached after a Commission of Inquiry, appointed by the League, had investigated the circumstances and recommended the payment of compensation to the Bulgarian Government(2).

Under Article 10 of the Covenant—guarantees against aggression—the members of the League undertook to preserve against external aggression the territorial integrity and existing political independence of all members of the League. In the event of such aggression or threat of aggression, the Council was to advise as to the means by which this obligation should be fulfilled. The Second Assembly of the League, meeting in September 1921(3), considered a Canadian proposal for the elimination of this Article, on the grounds that it involved a recognition of the legality of the territorial status quo and an obligation on the members of the League to guarantee its permanent maintenance. The matter was discussed at considerable length, not only by the Second Assembly, but by the Third and Fourth Assemblies in 1922 and 1923(4) and it was finally decided to leave the Article as it stood, but to recommend that the Council should take into account the special circumstances and geographical position of each State, when recommending the application of military measures in defence of territorial integrity.

B. THE DRAFT TREATY OF MUTUAL ASSISTANCE AND THE UNRATIFIED GENEVA PROTOCOL 1924

Article 8 of the Covenant laid down the principle of the reduction of armaments, and from the inception of the League various technical

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(1) Toynbee's Survey 1920-1923, p. 348.
(2) Toynbee's Survey 1925, Vol. II., p. 299 et seq.
(3) Plenary Sessions, 2nd Assembly, p. 693.
committees had been considering how best to implement this article. By 1923 the experts had reached the conclusion that disarmament must be combined with a system of guarantees against aggression. At its meeting in August 1923(1) the Temporary Mixed Commission for the Reduction of Armaments discussed the text of a Draft Treaty of Mutual Assistance, which was to link up the question of disarmament with that of a general treaty of mutual guarantee. Article I of this Treaty went beyond the terms of the Covenant. By this the Contracting Parties solemnly declared that "aggressive war is an international crime" and severally undertook that none of them would be guilty of its commission(2). The rest of the Treaty dealt with disarmament and collective action under the League in the event of aggression.

The Draft Treaty was considered by the Fourth Assembly during its session in September 1923(3). During the discussions it appeared that many members did not favour the treaty because they were afraid to reduce their armaments without adequate guarantees of security, and others were afraid that it would give rise to the old system of European alliances. It was decided, however, that the Draft Treaty should be communicated to the Governments members of the League.

During the year between the meetings of the Fourth Assembly in 1923 and the Fifth Assembly in 1924, the Draft Treaty of Mutual Assistance was approved in principle by eighteen governments, but it gave rise to certain misgivings, voiced in the debates of the Fifth Assembly, which were attended by the Prime Ministers of Belgium, Denmark, France and Great Britain(4). The discussions led to the adoption, by the Assembly, of a joint resolution submitted by the British and French delegations(5) inviting it to strengthen the solidarity and security of the nations of the world by ensuring the pacific settlement of all disputes which might arise between States. On the basis of this resolution, the Assembly drew up the Protocol for the Pacific Settlement of International Disputes, which contained a system of arbitration from which no international dispute, whether legal or political, should escape. It provided for a military, financial and economic co-operation which, by guaranteeing the security of States, would render possible a considerable reduction of national armaments.

After a preamble, in which the signatory States recognized the solidarity of the members of the international community and asserted that "a war of aggression constitutes a violation of this solidarity and an international crime," the parties to the Protocol(6) agreed "in no case to resort to war, either with one another or against a State which, if the occasion arises, accepts all the obligations hereinafter set out, except in case of resistance to aggression." By a unanimous resolution the Assembly decided to recommend the Protocol to Governments for acceptance.

By March 1925, there having been a General Election in England in

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(4) Plenary Meetings, Fifth Assembly, p. 42 et seq.
the meantime and a consequent change of Government, the British Foreign Secretary stated, at a Council meeting(1), that the British Government did not believe that the Protocol provided the most suitable method of preventing war. For instance, under Articles 7 and 8 of the Protocol, by which States agreed to restrict the movements of their forces in the event of a threat of war, the victim of aggression is hindered, since that State cannot dispose of its troops, while the aggressor is free to choose the time and place most suitable for making the attack. The British Government, however, considered that the best way of dealing with the matter would be to supplement the Covenant by making special arrangements, in cooperation with the League, in order to meet special needs. "These objects can best be attained by knitting together the nations most immediately concerned and whose differences might lead to a removal of strife, by means of treaties framed with the sole object of maintaining, as between themselves, an unbroken peace"(2).

As a result of this declaration, other members of the League also found themselves unable to accept the Protocol and the Sixth Assembly, meeting in September 1925(3), noting that there would not be enough ratifications for the Protocol to come into force, declared "afresh that a war of aggression should be regarded as an international crime" and undertook "again to work for the establishment of peace by the sure method of arbitration, security and disarmament." Arising out of this resolution arrangements, which matured in 1932, were made for the holding of a Disarmament Conference.

Thus, although war was declared in two instruments to be an illegal act, neither of the instruments was ever ratified and, for the moment, the principle was not accepted as a statutory part of international law.

C. THE LOCARNO TREATIES

At the time that Sir Austen Chamberlain, British Foreign Secretary, made his statement to the Council of the League refusing, on behalf of the British Government, to accept the Geneva Protocol, negotiations were in progress between the Belgian, British, Czech, French, German, Italian and Polish Governments which resulted in the agreements drawn up at Locarno in October 1925.

The Locarno Treaties consisted of(4)—first, a Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain and Italy; secondly, Arbitration Conventions between Germany and Belgium, and Germany and France, by which the parties agreed to bring disputes of every kind, which could not be settled amicably by the normal methods of diplomacy, either before an arbitral tribunal, or before the Permanent Court of International Justice, or before a Permanent Conciliation Commission, whose machinery was set up in the Convention, or, failing that, before the Council of the League. The third set of Arbitration Con-

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ventions were those between Germany and Poland, and Germany and Czechoslovakia, which stated, in their preambles, that sincere observance of the methods of peaceful settlement of international disputes should permit the solving, without recourse to force, of questions which might otherwise become the cause of division between states. These Conventions also set up machinery for the settlement of disputes by peaceful means. The fourth set of Conventions were those of mutual guarantee signed by France and Poland as well as France and Czechoslovakia. These treaties did not go as far as the League instruments in outlawing war, but endeavoured to safeguard peace by the system of mutual guarantees and by setting up machinery to obviate the causes of war.

In a draft note to Germany from the other Governments, parties to the agreements, these Governments defined what they considered to be the obligations under Article 16, the "sanctions" article, of the Covenant of the League. This was understood to mean:

"that each State member of the League is bound to co-operate loyally and effectively in support of the Covenant and in resistance to any act of aggression to an extent which is compatible with its military situation and takes its geographical position into account."

Following the signature of these agreements at Locarno, the other parties to them supported the admission of Germany to the League, and she was formally admitted to that body on 8th September 1926.

The Assembly, during its session in 1926(1), noted the importance of the Treaties of Locarno. It considered that the general ideas embodied in these treaties, whereby provision was made for conciliation and security by the mutual guaranteeing of States against any unprovoked aggression, might be applied to different parts of the world and should be accepted among the fundamental rules which should govern the foreign policy of every civilised nation. The Assembly expressed the hope that other Governments would put these principles into practice.

Germany was guilty of unilateral repudiation of Article I of the Treaty of Mutual Guarantee, by which she had agreed to abide by the provisions of the Treaty of Versailles, when, in March 1936, she remilitarized the Rhineland. France protested to the Council(2) which met in special session in London. The German representative, von Ribbentrop, raised the counter accusation that France had violated the Locarno agreements by signing the Franco-Soviet Pact in 1935. The German Chancellor was prepared to conclude pacts of non-aggression with France and Belgium and to offer Europe an agreement guaranteeing peace for 25 years. The British Foreign Secretary took the view that the breach of the Treaty did not carry with it any threat of hostilities or involve immediate action. Consequently, no action was taken, though Britain and France notified Belgium that they considered her released from any obligations under the Treaty of Locarno.

(2) League Year by Year, 1936, Part I, p. 69.
During the years 1926 and 1927 a movement had been growing in the United States in favour of an official declaration outlawing war. Impetus was given to this movement on 6th April 1927, when M. Briand, French Foreign Minister, in a message to the American people to commemorate the tenth anniversary of the entry of the United States into the War, suggested that France and the United States might celebrate the occasion by subscribing publicly to some mutual engagement tending to outlaw war between the two countries. A few months later, M. Briand sent to Mr. Kellogg, United States Secretary of State, a draft treaty on these lines. On the suggestion of Mr. Kellogg it was decided that the draft bilateral treaty should be made multilateral and during 1928 the Governments of Germany, Italy, Japan, Great Britain and the British Dominions, together with Belgium, Czechoslovakia and Poland, the other parties to the Locarno agreements, were invited to join.

Meanwhile during the Eighth Session of the Assembly, meeting during September 1927, the following resolution was adopted:

"The Assembly . . .

"Being convinced that a war of aggression can never serve as a means of settling international disputes and is in consequence an international crime;

"Considering that a solemn renunciation of all wars of aggression would tend to create an atmosphere of general confidence calculated to facilitate the progress of the work undertaken with a view to disarmament;

"Declares:

(1) "that all wars of aggression are and shall always be prohibited;
(2) "that every pacific means must be employed to settle disputes of every description, which may arise between States.

"The Assembly declares that the States Members of the League are under an obligation to conform to these principles."

During the correspondence leading up to the signature of the Pact, it emerged that opinion in the United States laid emphasis on the renunciation of war, while thought in Europe laid stress on the pacific methods of settling international disputes. Moreover, the United Kingdom Government had to make some reservations as to its right to use force in defence of peace and tranquillity within the Empire.

On 27th August 1928 the representatives of Australia, Belgium, Canada, Czechoslovakia, Eire, France, Germany, Great Britain, India, Italy, Japan, New Zealand, Poland, South Africa and the United States, met together in Paris and signed the International Treaty for the Renunciation of War as an Instrument of National Policy whose terms were as follows:

"Article 1. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

"Article 2. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin

(1) Toynbee's Survey, 1928, p. 10 et seq.
(3) Cmd. 3410, H.M. Stationery Office.
they may be, which may arise among them, shall never be sought except by pacific means.

"Article 3. The present Treaty shall be ratified by the High Contracting Parties . . . This Treaty shall, when it has come into effect . . . remain open as long as may be necessary for adherence by all the other Powers of the world."

After the Treaty became effective on 24th July 1929, thirty-one other States adhered to it; it was thus accepted by forty-four States, the only Great Power which did not adhere to it being the Soviet Union.

E. THE GENERAL ACT FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES 1928

From the earliest days of the League, certain of its members had been advocating the establishment of treaties of arbitration. In the First Assembly, Norway and Sweden had suggested incorporating in the Covenant definite provisions for the settlement of disputes by the action of commissions of arbitration and conciliation, but by the time the Assembly met in its third session in 1922 it was decided that, rather than amend the Covenant or draw up a General Arbitration Convention, the League should encourage the development of bilateral conventions among its members. By this means a General Convention might ultimately be desirable and possible.

The Locarno Treaties were an important step in the development of such bilateral treaties. The League had also been encouraging its members to adhere to the Optional Clause of the Statute of the Permanent Court of International Justice, by which States adhering to the Convention agree to accept as binding the decisions of the Tribunal. As a result of this encouragement many of the States members of the League did adhere to the Optional Clause, thereby strengthening the power of the Court in judicial disputes.

The Arbitration and Security Committee of the League had prepared, for the consideration of the Ninth Assembly in September 1928, six conventions for the pacific settlement of international disputes, namely: three conventions for the solution of disputes by arbitration, conciliation and judicial settlement and three model bilateral treaties of mutual assistance or non-agression. Under these latter conventions the parties undertook "in no case to resort to war against another Contracting Party.

The Assembly decided that the three model general conventions for the pacific settlement of disputes should be brought together into one instrument, and a committee, whose rapporteur was M. Politis of Greece who had also been rapporteur of the committee which drew up the earlier Geneva Protocol, assembled the three conventions into a single General Act, consisting of four chapters:

(1) provided for the solution of all disputes;
(2) contemplated the judicial settlement or arbitration of disputes;

(3) Recommendations and Resolutions, Assemblies, 7-11, pp. 40, 46 and 52.
(3) provided for the arbitration of non-legal disputes; and

(4) laid down general provisions for reservations by which adhering States might accede to the General Act as a whole or limit their engagements to certain Chapters.

This General Act differed from the Geneva Protocol in that it did not need to be negotiated, but would come into force once it had received two adhesions, and would remain open indefinitely for the accession of all other States. It was recommended to the Assembly as the logical implementation of the Pact of Paris on the grounds that the Pact did not contain any positive obligations to resort to the pacific settlement of disputes.

The bilateral treaties contained the three principles embodied in the Locarno Treaties, namely, non-aggression, the compulsory settlement of disputes and the clause for mutual assistance, but it differed from them in that it contained no territorial guarantees, or guarantees by a third State, no provision in cases of flagrant aggression and no stipulation regarding demilitarized zones.\(^1\)

The Ninth Assembly invited all States, whether members of the League or not, to accept the procedure for pacific settlement of disputes either by becoming parties to the General Act, or by concluding draft conventions in accordance with the model bilateral conventions; it also hoped that States would take action between themselves to conclude treaties of mutual assistance and non-aggression, on the lines laid down in the model treaties.

The Act, however, received a set-back even on its first introduction into the Assembly, because the Hungarian delegate stated that though his Government acceded fully and sincerely to the Act, it felt it could not fulfil the moral duty of putting it into effect without adequate guarantees of security. "How can we," asked the Hungarian delegate, "disarmed and defenceless conclude a treaty of mutual assistance with nations armed to the teeth?"\(^2\) The Hungarian delegation therefore refrained from voting for the General Act.

Up to 15th July 1934 the General Act had received only 19 accessions, namely: Austria, Belgium, United Kingdom, Canada, Denmark, Estonia, Finland, France, Greece, India, Eire, Italy, Luxembourg, the Netherlands, New Zealand, Norway, Peru, Spain and Sweden.\(^3\)

F. ATTEMPTS TO ASSIMILATE THE PROVISIONS OF THE Pact of PARIS INTO THE COVENANT OF THE LEAGUE

By September 1929, when the Tenth Assembly of the League met, the Pact of Paris had come into force and the Assembly had to consider whether it was desirable to amend the Covenant to include in it the provisions of the Pact. The British delegation put forward a memorandum showing how the provisions of the Covenant differed from those of the Pact, namely\(^4\):—under Article 12 of the Covenant, nations could resort to war

\(^1\) Plenary Session, Ninth Assembly, p. 170.
\(^2\) Plenary Meetings, 9th Assembly, p. 175.
\(^3\) Monthly Summary, Vol. XIV, No. 6, p. 158.
\(^4\) League Year by Year, 1928-1929, p. 85.
three months after the award of the arbitrers or judicial decision; according to the Pact of Paris, nations gave up this right. Under paragraph 6 of Article 15, the party which had accepted the report of the Council might go to war against the party which had not accepted it; under the Pact of Paris States renounced this right. Similarly, under paragraph 7 of Article 15, members of the League reserved to themselves the right to take such action as they should consider necessary for the maintenance of right and justice if the Council failed to reach a unanimous decision on the report; under the Pact of Paris they also renounced that right.

The Tenth Assembly referred the matter to a special committee of eleven members, while the delegates wished to refer the matter back to their respective Governments. The following year, 1930, the Assembly again considered the matter, but again decided that it must be referred back to the respective Governments.(3) It was found difficult to assimilate the provisions of the Pact into the Covenant, because during the negotiations which preceded the Pact, its scope had been defined and certain reservations had been accepted. There seemed, to those States who had not signed the Pact, to be no hurry to amend the Covenant. To others, the proposed amendments proved incompatible with other treaties and with situations which were the object of express reservations when the Pact had been concluded. Moreover, members were not agreed as to how the obligations under the sanctions article would apply to the new conditions.

The matter was again discussed by the Assembly which met in 1931(4) and it was decided that some form of general prohibition to resort to war should be embodied in the Covenant, and that a commission consisting of representatives of all the member States should meet during the Disarmament Conference, which was due to be held the following year. When, however, the Council(5) in January 1932 authorised the Secretary General of the League to convene such a Commission, the Secretary General, after consultation, replied that the work of the Disarmament Conference had not reached a stage which would justify the calling of the Commission.

The studies, which had been begun by the Committee of Eleven in 1930, dragged on, and in 1936 a Committee of Twenty-Eight was appointed to consider the co-ordination of the Pact of Paris, the Treaty of Rio de Janeiro of 10th October 1933 (the Saavedra Lamas Pact)(6) and the Covenant of the League. However, the divergent opinions as to the incorporation of the obligations of the Pact and the reluctance of certain States to incur any additional responsibility in the matter of sanctions, resulted in failure to produce any concrete solution. On 4th October 1936 the Assembly accepted a resolution declaring(7):—

"In the event of war or threat of war, the League of Nations, while not delaying for that purpose its own action in virtue of the Covenant, shall take suitable steps and shall establish such contacts as may appear to be necessary

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(3) League Year by Year, 1931-33, p. 73.
(4) For further details of the Saavedra Lamas Pact, see Section M (iv) p. 79.
(5) League from Year to Year, 1937, p. 39.
to associate in its efforts for the maintenance of peace those States which are not members of the League, but are mutually bound by the above-mentioned covenants, the common aim of which is to maintain peace."

It might be mentioned here that shortly after the Disarmament Conference met in February 1932, the Governments of the United Kingdom, France, Italy, and Germany, in a statement declaring that Germany should be granted an equality of rights as the other Powers not disarmed by Treaty, confirmed that "they will not in any circumstances attempt to resolve any . . . differences by resort for force."(1)

G. THE MODEL TREATY TO STRENGTHEN THE MEANS OF PREVENTING WAR

In 1928 the German delegation to the Assembly presented for consideration a model treaty for preventing war, which was circulated to States for their examination.(2) The following year the British delegation to the Assembly suggested that the Arbitration and Security Committee should consider the possibility of establishing a draft general convention on the lines of the model treaty.

By the time the Eleventh Assembly met in 1931, a Draft Convention had been drawn up and was presented for approval to the Assembly. The purpose of this Convention was to enable the Council of the League to act more effectively under Article 11—action in case of war or danger of war—by enabling it to pass decisions and recommendations without reckoning the votes of the parties to the dispute. This Convention did not contain any provisions renouncing war, but it included inter alia(3) an undertaking by the parties that, should a threat of war exist between them, they would comply with certain measures prescribed by the Council, such as: the fixing of lines which must not be passed by their land, naval or air forces, with a view to preventing incidents, and the appointment of commissioners on the spot, whose duty it would be to prevent clashes and, should hostilities occur, to facilitate the determination of responsibility.

This Convention was approved by the Assembly on 26th September 1931, and opened for signature to all States. Only nineteen States signed it, but out of these only three—the Netherlands, Norway, and Peru—ratified it. Since ten accessions had to be received for the instrument to be ratified, it never came into force.

H. THE WAR BETWEEN BOLIVIA AND PARAGUAY (THE CHACO WAR)

Oil having been discovered in the Chaco area of Bolivia, a dispute arose between Bolivia and Paraguay as to which State was the rightful owner of the area. In December 1928 the matter came to a head when Paraguayan forces invaded the Chaco. At its meeting on 11th December 1928, the

(2) League Year by Year, 1928-29, p. 29.
Council of the League sent an appeal to both parties to terminate hostilities. Bolivia replied by stating that Paraguay had committed aggression contrary to Articles 10 and 12 of the Covenant. On 15th December the Council sent another appeal to both parties not to take any action which would aggravate the situation. Paraguay, in a communication to the Council, said that she had asked for an impartial investigation from the outset, and had never wanted to resort to war. Paraguay also added that she had accepted the good offices of the Pan-American Conference on Conciliation and Arbitration, then meeting at Washington.\(^{(1)}\)

As a result of the actions of the League and of the Pan-American Conference, the belligerents set up a Commission of Conciliation\(^{(2)}\) and, as a result, hostilities were broken off. War was thus prevented by the joint action of the League and the Washington Conference.

Hostilities between Bolivia and Paraguay, however, broke out again in July 1932\(^{(3)}\) at a time when the delegates of the two countries were pursuing at Washington, under the auspices of the Commission of Neutrals (the United States, Colombia, Cuba, Mexico and Uruguay), negotiations for the institution of a bilateral pact of non-aggression.

On 21st July 1932 the Bolivian delegate brought the matter to the attention of the Secretary General of the League, and a few days later, in reply to an appeal from the League, the Paraguayan Government declared its willingness to submit the dispute to peaceful procedure.\(^{(4)}\) However, hostilities continued and there was much correspondence between the belligerents and the League, which continued to appeal to the parties to recall their obligations under the Covenant. Both parties replied that they were in principle prepared to continue their efforts to reach a peaceful solution, but the fighting continued. Meanwhile, the Commission of Neutrals in Washington tried to bring about a termination of hostilities, and the special Committee of Three set up by the League Council, (composed of representatives of Eire, Guatemala and Spain) co-operated with that body in defining the conditions which were thought likely to lead to the cessation of hostilities and a peaceful settlement of the dispute.

At a meeting of the Council of the League on 3rd February 1933,\(^{(5)}\) the Committee of Three recommended that a small commission should be despatched to the spot. The belligerent States, when approached about this suggestion, however, asked that the League should wait because the neighbouring States of the Argentine, Brazil, Chile and Peru were then engaged in negotiations for peace.

On 22nd February, the British Government drew the attention of the Secretary General to the fact that since neither of the belligerents were producers of arms, implements and munitions of war, the Council might study measures for preventing the furnishing of arms to those countries, in accordance with Article 11 of the Covenant. The Committee of

\(^{(1)}\) *League Year by Year*, 1929, p. 140.
\(^{(2)}\) For more detailed account of Pan-American Conferences, see Section M (iii) p. 78.
\(^{(3)}\) *League Year by Year*, 1932, p. 177.
\(^{(5)}\) *League Year by Year*, 1933, p. 175 et seq.
Three accepted this suggestion, but on 10th May Paraguay declared war on Bolivia, and Bolivia accordingly asked the League to take action under Article 16 of the Covenant.

In May the Council agreed to the suggestion of the Committee of Three to send a commission to the spot. During June and July the Council tried to secure agreement between the belligerents, but Paraguay demanded the cessation of hostilities before arbitration, and Bolivia insisted that arbitration should precede the cessation of hostilities.

The four adjacent States were still continuing their efforts in peacemaking and on 3rd August, following a request to this effect from both belligerents, the Council agreed that their commission on the spot should consist of representatives of these four countries. However, by 1st October these Governments notified the Council that they were unable to agree to this, so a commission consisting of representatives of Great Britain, France, Spain, Italy and Mexico was appointed by the Council, and constituted itself in Montevideo on 3rd November.

This League Commission, having visited both fronts, arranged an armistice from 19th to 30th December 1933, and summoned representatives from both parties to a discussion at Montevideo. The Commission proposed the extension of the truce until 14th January and the appointment of a commission of neutral officers to supervise the observation of the armistice. As a solution to the dispute, the Commission recommended that it be submitted to the Permanent Court of International Justice, that the armed forces be withdrawn and a general settlement be made.

The Seventh Pan-American Conference, meeting also at Montevideo from 3rd to 26th December, 1933, sent its good wishes and support to the League Commission. The efforts for peace failed, however, with the refusal of the Government of Paraguay to prolong the truce beyond 6th January 1934.

Since the League Commission on the spot had failed, it returned to Geneva and in May 1934(1) published its report. In its report, the Commission did not decide on the question of responsibility for the war, since both parties claimed the Chaco as their territory and therefore pleaded that they were fighting a war of self-defence, but it recommended that "it is essential that the system of intervention from many quarters should come to an end—that there should be no longer a doorway through which the parties can leave one procedure for another and experiment with a fresh formula when the negotiations take a turn unsatisfactory to them."(2)

On 31st May 1934 the Bolivian Government appealed to the League under Article 15 of the Covenant, but it was held that since the conciliation procedure under Article 11 was not closed, the provisions of that Article did not apply. The Council asked the Committee of Three to continue its efforts to effect a settlement of the dispute. Meanwhile the Committee, which had been investigating the problem of organising an embargo on the export and transit of arms and war material to Bolivia and Paraguay,

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(1) Monthly Summary, Vol. XIV, p. 103 et seq.
reported to the Council that none of the 35 nations consulted had raised any objection to the principle of an arms embargo except Japan, which, though it had never exported arms to either country, declined to associate itself with this proposal.

Since the Bolivian Government had availed itself of the right, under paragraph 9 of Article 15, to bring the matter before the Assembly, it was discussed by that body during its session in September 1934. Since the parties concerned had both claimed that the limitation of arms was beyond the scope of the Covenant, a special committee was appointed to investigate the question, but it was reported that, out of 35 Governments consulted concerning the embargo, 28 States, including the U.S.A. and U.S.S.R., had replied that they had taken steps to prohibit the export of arms, etc., to both belligerents.

The efforts at conciliation having proved fruitless, the Assembly was summoned to an extraordinary session in November. The views of the two parties still proved irreconcilable, Paraguay being primarily concerned with the cessation of hostilities and guarantees of security, while Bolivia insisted on a final settlement of the controversy. The Assembly adopted a report under Article 15, paragraph 4, whose recommendations provided for the cessation of hostilities, measures for security, peace negotiations, and an embargo on arms and war material. The United States and Brazil, non-members of the League, were asked to collaborate in the work of an advisory committee which was to watch over the application of the report. Bolivia accepted the recommendations of the League, but Paraguay only with reservations; Bolivia consequently asked that the arms embargo against herself might be raised. This the Advisory Committee agreed to, recommending at the same time that the embargo against Paraguay, which had rejected the League's recommendations, should be tightened. As a result of this the Government of Paraguay, on 24th February 1935, notified the Secretary General of its intention to withdraw from the League.

In March the Advisory Committee discussed whether the continuation of the war did not involve the immediate application of Article 16, but since the Governments of Argentine and Chile were making overtures to the parties to accept a plan, based on the League's recommendations, the matter was deferred.

Although there was a special meeting of the Assembly in May 1935, it was as a direct result of the mediation of the Governments of Argentine, Brazil, Chile, the United States, Peru and Uruguay that the fighting ceased in June 1935. On 13th June the Argentine Foreign Minister informed the Secretary General of the League that the Mediation Commission of representatives of these Governments, over which he presided in Buenos Aires, had obtained agreement between the belligerents. As a result of the efforts of this Commission a Peace Conference was held at Buenos Aires and on 12th July peace was signed between Bolivia and Paraguay.

Some hold that the failure of the League to end the Chaco war was one of the reasons for its impotence in the Italo-Abyssinian and Sino-Japanese wars.

I. THE WAR BETWEEN COLOMBIA AND PERU (THE LETICIA INCIDENT)

According to a treaty signed at Lima on 24th March 1922 between Colombia and Peru and ratified in 1928, a district on the Amazon of which Leticia was the capital, had been included in Colombian territory. At the beginning of September 1932, individuals coming from Peru entered Leticia, from which they drove the Colombian authorities. They then occupied the territory known as the Trapezium of Leticia and fortified their positions, while the Colombian Government armed a small flotilla, which advanced up the Amazon. The Peruvian Government claimed that Leticia had been transferred to Colombia without the wishes of the inhabitants being consulted, and protested at the military preparations of the Colombian Government.

In January 1933 the Colombian Government brought the matter to the notice of the Council of the League. The President of the Council asked the Committee of Three (Éire, Guatemala and Spain) already concerned with the war between Bolivia and Paraguay, to watch the progress of the dispute. The Council appealed to both parties to refrain from further hostilities, but the situation did not improve. In March the Council suggested that a commission of the League should administer the territory in dispute; that it should be evacuated by Peruvian troops and that Colombia should place at the disposal of the League troops which, regarded as international forces, would be responsible for maintaining order. The Colombian Government accepted these proposals but they were rejected by Peru. The Council published a report on these lines which was also accepted by Colombia, but rejected by Peru. The Council recalled that the Assembly, in March 1932, “had declared that the Members of the League were bound not to recognise any situation, treaty or agreement, which might be obtained by measures contrary to the Covenant or the Pact of Paris.”

There were further encounters between the Colombian and Peruvian forces in March 1933, but by 25th May the two Governments had accepted the recommendations of the Council. It was decided that the proposed League Commission should proceed to Leticia within 30 days; that Peruvian forces within Colombian territory should be withdrawn immediately, and that the Commission should take a hand in the administration of the evacuated territory, using forces of its own selection. The Commission to administer the territory, consisting of representatives of the United States, Brazil and Spain, took possession of Leticia on 23rd June 1933, the Peruvian forces having been evacuated. Negotiations between the parties opened in Rio de Janeiro in November 1933, under the Chairmanship of the Brazilian Minister of Foreign Affairs. By August 1934 the

(1) League Year by Year, 1933, p. 182 et seq.
League Commission handed back to Colombia the territory of Leticia, since the boundary question between Colombia and Peru had been settled at Rio de Janeiro.\(^{(1)}\)

In this case the League did succeed in securing the termination of hostilities, but the magnitude of the dispute can be judged by the fact that the League Commission reported that the town of Leticia had had 400 inhabitants when it took over, though by the time it left these had been increased to several thousand.

J. THE ITALO-ABYSSINIAN WAR

On 13th December 1934 the Abyssinian Foreign Minister complained to the Council of the League of an attack made by Italian troops on Abyssinian troops at Walwal on 5th December, and continued attacks by Italians in that neighbourhood.\(^{(2)}\) The Italian Government, in a note to the Secretary General, stated that there had been no advance on Abyssinian territory, but that Italian aircraft had been shot at on reconnaissance. Both parties, however, expressed themselves willing to continue direct negotiations for a settlement. The two Governments attempted to settle the dispute by means of the arbitration machinery set up by the Italo-Abyssinian Treaty of 1928. When in March the Ethiopian delegate tried to lay the matter before the Council, Italy claimed that Article 15 was not applicable, since direct negotiations were still continuing. The Ethiopian Government suggested that if, after a period of 30 days, the arbitration machinery had not succeeded in concluding an agreement, the Council should be asked to arbitrate.

In May 1935\(^{(3)}\) the Council noted that since direct negotiations had failed, both countries had appointed arbiters, and they therefore fixed the 25th August as the date by which both conciliation and arbitration should be finished.

Since, by August, the arbitration machinery had failed to reach a solution, and Ethiopia reported, in the meantime, that Italian troops and war materials had been arriving in East Africa, an extraordinary meeting of the Council was called. The Council decided to appoint a fifth arbiter on the Commission, but meanwhile noted that the Governments of Britain, France and Italy were to enter into direct negotiations with the aim of settling the dispute. These negotiations took place in Paris between 16th and 19th August, but no reasonable basis for discussion could be found and they achieved no result. The Sixteenth Assembly, meeting in 1935, discussed the dispute.\(^{(4)}\) Fifty members of the Assembly approved a report in which Italy was declared to have "resorted to war in disregard of its covenants under Article 12 of the Covenant." Having regard to Article 16, the Assembly set up a Committee, consisting of one delegate from each member of the League other than the parties concerned, to consider and facilitate the co-ordination of action for the application

\(^{(1)}\) Monthly Summary, Vol. XIV, p. 186.
\(^{(4)}\) League Year by Year, 1936, p. 19 et. seq.
of sanctions. The Council offered its services to the parties in an endeavour to bring about a cessation of hostilities, while the Governments of France and Britain took separate action to achieve the same end.

On 2nd November, the Co-ordination Committee decided that a prohibition on the import of Italian goods and an embargo on certain exports to Italy should come into force on 18th November. A few days later it was recommended that the embargo should be extended to cover oil, iron and coal.

By 13th December the text of the Franco-British (Hoare-Laval) proposals were communicated to the Council. Ethiopia protested that these entailed the cession to Italy of part of her territory, of economic privileges and of privileges which amounted to granting Italy predominant control over the administration of the capital and a large part of the territory of Ethiopia. To this the British and French Foreign Ministers replied that the proposals were put forward to ascertain the views of both parties and were not terms to be imposed.

During December the war flared up, with complaints from the Ethiopian Government that ambulances had been bombed and poison gas used by the Italians, while the Italian Government alleged that the Ethiopian forces were using dum-dum bullets.

Two Committees of the League were concerned in the Italo-Abyssinian dispute, the Committee of Thirteen, which was trying to bring about the termination of hostilities, and the Committee of Eighteen, which was concerned with the application of sanctions. In January 1936 the Committee of Thirteen, in answer to an appeal from the Ethiopian Government to appoint a commission to investigate allegations of breaches of the laws of war, stated that, since the Swedish Government had made a report to the International Red Cross, it was unnecessary for the League to appoint a Commission. It also considered a request made by the Ethiopian Government for financial assistance, but found itself unable to approve the request.

On 3rd March 1936, both the Committee of Eighteen and the Committee of Thirteen met. The latter body made an urgent appeal to the belligerents to open negotiations within the framework of the League. At the Committee of Eighteen, the British delegate said that his Government was in favour of the imposition of an oil embargo on Italy, and that it would be willing to join in the application of this sanction.

Both parties having agreed in principle to the opening of negotiations, a meeting of the Committee of Thirteen was summoned for the purpose, and the Italian Government was asked to send a representative to Geneva by 12th April. By this date the Ethiopian delegate was in Geneva, but the Italian delegate did not arrive until 15th April, and proposed that the negotiations should be conducted directly between the two belligerents. The Ethiopian delegate refused to accept this, on the plea that such negotiations would not be carried out within the framework of the League. The effort to secure peace, initiated on 3rd March, therefore failed.

Allegations continued to be received from both parties that the opposing
forces were using illegal methods of warfare. On 9th April the Committee of Thirteen appealed to both parties to refrain from such offences, but both Governments replied that they had adhered to the rules of war, while their opponents had not. The documents received by the League on the subject were referred to a Committee of Jurists for investigation.

At a meeting of the Council on 20th April, the Italian delegate stated his case. He blamed Ethiopia for the break-down of negotiations and queried the competence of the Committee of Thirteen to deal with the question of the breaches of the laws of war. The Council reviewed with approval the work of the Committee of Thirteen and addressed to the Italian Government a supreme appeal to bring to the settlement of her dispute with Ethiopia that spirit which the League was entitled to expect from one of its original members and a permanent member of the Council. It also recalled that both parties were bound by the Protocol of 17th June 1925 limiting the use of asphyxiating, poisonous and other gases. The Italian delegate voted against the draft resolution, which was adopted by the other members of the Council.

In spite of all these appeals, the Italian forces continued their advance and on 5th May 1936, the Emperor having fled from Addis Ababa, the capital was occupied by the Italians. On 9th May Italy formally annexed Abyssinia.

On 10th May, from Jerusalem, the Emperor sent an appeal to the League asking it to pursue its efforts to ensure the respect of the Covenant, and not to recognise any territorial extensions or the exercise of an alleged sovereignty resulting from the illegal recourse to armed force or in violation of international obligations.

On 11th May the Council met to discuss the situation. Because the Ethiopian delegate was in the room, the Italian representative refused to take his place at the Council table and was recalled to Rome on the following day. In his absence, the Council decided to adjourn the discussion until 15th June, though some delegates queried the continuance of sanctions against Italy.

Such were the measures taken by the League to bring an end to the war by negotiation. It had also adopted the application of sanctions under Article 16. In October 1935 the Committee of Eighteen had recommended that any embargo on arms to Ethiopia should be lifted; that Governments should at once impose an embargo on the export, re-export or transit of arms, ammunition and implements of war to Italy and the Italian colonies; that financial pressure should be brought to bear on Italy; that there should be a prohibition on the import of Italian goods and an embargo on the export of certain goods to Italy. At the time that the League was considering these measures, the President of the United States issued a proclamation placing an embargo on the export of arms, ammunition and implements of war to both belligerents. In November the Committee decided that the embargo on exports to Italy should include petroleum, iron, steel, coal and coke, and appointed a committee of experts to examine the conditions of trade in these items. This committee reported on 12th February that the embargo would take about three and
a half months to become effective, and that, if it were placed only on exports from States members of the League, it would merely mean that the purchase of petroleum by Italy would be more difficult and expensive.

The war having come to an end by May 1936, when the Assembly met in June\(^\text{(1)}\) it received from the Italian Government a statement that in view of the backwardness of the Ethiopian people, Italy had stepped in to safeguard their fundamental rights and that Italy regarded her mission in Ethiopia as a "sacred mission of civilisation."

The Ethiopian delegate presented a resolution to the Assembly asking, first that the League should not recognise any annexation obtained by force and, secondly, that the Governments members of the League should provide a guaranteed loan of £10,000,000 to the exiled Ethiopian Government. The Assembly approved by forty-four votes to one against and four abstentions, a motion that action should be taken to wind up sanctions, but the request of the Ethiopian Government for a loan had only one vote in favour, twenty-three against and twenty-five abstentions. This resolution of 4th July 1936, winding up sanctions, had recognised the fact that the League was unable, in the matter of Ethiopia, to assure the full application of the provisions of the Covenant; in other words, it recognised that the League had failed in this matter.

On 16th April 1938\(^\text{(1)}\) the British Government concluded an agreement with Italy whereby it recognised the \textit{de facto} Italian Government in Abyssinia. This action was welcomed not only in Europe, but also in the United States, and France was reported to be negotiating a similar agreement. The British Government brought to the notice of the Council the anamalous situation arising from the fact that many States members of the League, including five States represented on the Council, had recognised that the Italian Government exercised sovereignty over Ethiopia, or had taken action implying such recognition, whereas other States had not done so. The British Government considered that the matter should be clarified. The Ethiopian delegate reported to the Council that the situation in Ethiopia was such that, over three-quarters of the country, Italian authorities exercised no military control beyond a radius of ten to thirty miles around the larger towns, and that the Ethiopian civil and military administration was maintained in a large part of the country. The attitude of the British Government, as expressed by its Foreign Secretary, was that the recognition of a \textit{de facto} situation could not be held up indefinitely by adherence to international principles of morality. Ethiopia protested that this was a violation of the rule laid down by the Assembly in March 1932, and confirmed on 4th July 1936 for non-recognition of situations brought about contrary to the Covenant and the Pact of Paris, and asked that the matter should be brought before the Assembly. The Council, however, decided, in view of the admission in the Assembly's resolution of 4th July 1936 that the League had failed in this matter, that the question of the recognition of Italy's position in Ethiopia was one which every member of the League must be held entitled to decide for itself in the light of its own situation and obligations.

\(^{(1)}\) \textit{League Year by Year}, 1938, p. 59 et seq.
K. THE JAPANESE OCCUPATION OF MANCHURIA AND THE SINO-JAPANESE WAR

In 1922 a Conference met at Washington to frame a treaty governing the relations between China and the other Powers having trade and other relations with her, since the 1914-18 war had resulted in a rearrangement of the position of the Powers in the Far East.

This Conference drew up the Nine Power Treaty, signed and ratified by Belgium, the United States, the British Empire, China, France, Italy, Japan, the Netherlands and Portugal. Under this Treaty the Powers agreed "to respect the sovereignty, the independence and the territorial and administrative integrity of China" and "to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government."(1) The Contracting Powers also agreed that "whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present treaty, and renders desirable discussion of such application, there shall be full and frank communication between the Contracting Powers concerned."

In September 1931(2) the Chinese Government appealed to the Council, under Article 11 of the Covenant, on the grounds that Japanese troops had been operating outside the railway zone of Southern Manchuria. However, due to the good offices of the Council, the Japanese Government agreed to withdraw its troops to the railway zone. On 10th December 1931 the Council recorded the undertakings of the Chinese and Japanese Governments to make the necessary arrangements for the withdrawal of Japanese troops to within the railway zone, to be effected as soon as possible, and it unanimously decided to send to the spot a Commission of Investigation of five members. This Commission was to report to the Council on any circumstance likely to disturb the peace or good understanding between China and Japan. During these discussions of the Council a representative of the United States had been present as an observer.

During the closing days of December 1931 the Japanese Government stated that the security of its forces was threatened by the activities of bandits in Manchuria, and that the Japanese troops had, therefore, begun a general movement with a view to quelling the bandits, especially in the region of Chinchow.

The Commission of Inquiry, presided over by Lord Lytton (Great Britain) with representatives from Italy, France, Germany and the United States, proceeded to China and, as a result of its activities, as well as those of the Council and Special Assembly, which met in March 1932,(3) hostilities in the Shanghai area were brought to an end by an armistice initiated in Shanghai on 14th March, and Japanese troops were withdrawn by the end of May. On 11th March 1932 the Assembly passed a resolution declaring that it was impossible for any State member of the League to recognise a

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(3) Monthly Summary, Vol. XII, p. 344.
situation brought about by means contrary to the Covenant of the League and to the Pact of Paris.

This resolution of the Assembly followed the lines already laid down by Mr. Stimson, the U.S. Secretary of State, in his note dated 7th January 1932 in which he stated:\(^1\)

"In view of the present situation and of its own rights and obligations therein, the American Government deems it to be its duty to notify both the Governments of the Chinese Republic and the Imperial Japanese Government that it cannot admit the legality of any situation de facto nor does it intend to recognise any Treaty or agreement entered into between these Governments or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence or the territorial and administrative integrity of the Republic of China, commonly known as the Open Door Policy, and that it does not intend to recognise any situation, treaty or agreement which may be brought about by means contrary to the Covenants and obligations of the Pact of Paris of August 27th 1928."

In October 1932 the conclusions of the Lytton Commission were published. The report recommended, among measures for the termination of hostilities, the establishment in Manchuria of a large measure of autonomy compatible with the sovereignty and administrative integrity of China.

The Lytton Report was considered by an Extraordinary Assembly which met from 6th to 9th December 1932.\(^2\) The Chinese delegate appealed to the Assembly on the following lines:—

(1) that the Assembly, working on the findings of the Lytton Commission, should declare that Japan had violated the Covenant of the League, the Pact of Paris and the Nine Power Treaty of Washington;

(2) that the Assembly should call upon Japan to put into execution forthwith the Council resolution of 10th December 1931 so that all Japanese troops should be withdrawn to the so-called Railway zone and the so-called Manchukuo Government be dissolved;

(3) that the Assembly, pending the dissolution of the so-called Manchukuo Government and recalling its own resolution of 11th March wherein it pledged itself not to recognise situations brought about contrary to international obligations, should declare that it would not recognise the said "Manchukuo Government";

(4) that the Assembly should produce as soon as possible a report for the final settlement of the dispute as laid down in Article 15 paragraph 4.

The Japanese representative replied that the independence of Manchuria was necessary to Japan and that the Assembly, in considering the matter, should be governed by the following principles:—

(1) that the terms should be such that they would be effectively put into operation and that they would accomplish and preserve peace in the Far East;

\(^1\) American Journal of International Law, Vol. XXVI (1932), p. 342. See also article by Prof. McNair in British Year Book of International Law, 1933, p. 65.

\(^2\) Monthly Summary, Vol. XII, p. 357.
(2) that a solution must be found for the disordered condition of China;

(3) that in case any plan for settlement was found by the League, that body must take upon itself the responsibility for its execution.

In the debate that followed various suggestions were made for a settlement of the dispute, for instance: that the two powers should submit the matter for conciliation, with the collaboration of the United States and Russia; that the Assembly should make attempts at conciliation; that a Committee of Nineteen should be appointed as a conciliatory body, with the collaboration of the United States and Russia, and that the League itself should draw up a constructive plan to settle the dispute. It was finally decided that the Committee of Nineteen should be appointed to study all relevant documents and submit, at the earliest possible moment, proposals with a view to settling the dispute.

Early in 1933, however, the Japanese troops crossed the Great Wall and occupied Shanhaikwan. The Committee of Nineteen found it impossible to draft a resolution acceptable to both parties, so it drew up a report recommending that Japanese troops should be evacuated from outside the zone of the Southern Manchuria Railway and that a regime, compatible with the administrative integrity of China, should be established in Manchuria. This report was considered by a Special Assembly which met in February 1933, and was adopted by 42 votes in favour, one against and one abstention. The Japanese delegate then left the Assembly and on 27th March Japan declared its intention of withdrawing from the League. The Assembly directed the Committee of Nineteen, to which the United States sent a delegate, to consider the question of the exports of arms to the Far East and the application of the provisions of non-recognition of Manchukuo.

The affairs of the Far East remained somewhat in abeyance in the discussion of the League until August 1937 when the Chinese Government notified the League of the attacks made by Japan, since 7th July 1937, in the Peiping-Tientsin area. The Chinese Government protested that Japan had violated the fundamental principles of the Covenant, the Pact of Paris and the Washington Treaty. It appealed to the League under Articles 10, 11 and 17, Japan being no longer a member of the League.

On 28th September the ordinary session of the Assembly condemned the action of Japan and appointed a Committee of Eleven to watch the situation. In October this Committee presented a report in which it found that the Japanese action was in contravention of her obligations under the Washington Treaty and the Pact of Paris, and it recommended that the signatories of the Washington Treaty should initiate consultations between the contracting parties concerned. The Assembly approved these recommendations, expressed its moral support of China and appealed to its members to refrain from any action which might have the effect of weakening China’s resistance. The United States Secretary of State also declared that the Japanese action was contrary to the Washington Treaty and the Pact of Paris. A meeting of the signatories of the Washington

(1) League Year by Year, 1933, p. 161.
(2) League Year by Year 1937 p. 70 et seq.
Treaty was held in Brussels in November, but reached no satisfactory conclusions for the settlement of the dispute.

The Council, at its meeting at the end of January 1938, reminded members of the Assembly resolution instructing members to refrain from any action which might weaken China’s position and asked them to consider how far they individually might extend aid to China. The Council also expressed its confidence that the interested Powers would do their best to consider any steps which might lead to a just settlement of the conflict in the Far East. After the Chinese delegate had protested that this resolution was inadequate, it was adopted with two abstentions.

At the meeting of the Council held in May 1938, the Chinese representative reported on breaches of the laws of war, such as use of poison gas by the Japanese, and appealed, under Article 17 of the Covenant, for material aid and effective co-operation from other members of the League. He asked that the resolutions of the Assembly and the Council should be implemented by concrete measures. The Council, however, adopted a resolution merely calling on members to assist the Chinese Government and condemned the use of poison gas.

In September 1938, before a meeting of the Assembly, the Chinese delegate again stated that the resolutions remained “unexecuted and inoperative” and asked for action under Article 17. He asked for the application of an embargo on the supply of arms and certain raw materials to Japan, and the adoption of measures of financial and material assistance to China. The Council, meeting also in September, following repeated appeals from the Chinese delegate, decided to send a telegram to the Japanese Government appealing to it, in accordance with Article 17, to accept the provisions binding on members of the League for the final settlement of their disputes. The Japanese Government replied that it did not consider this to be a method of obtaining a just and adequate solution of the conflict, and was therefore unable to accept the invitation. The Council produced a report on 30th September 1938, in which it found that the provisions of Article 16 would apply to Japan. However, it made no attempt to implement them, since all the European nations at this time were too preoccupied with events nearer home; it declared that China had a right to the sympathy and aid of other members of the League and the resolution continued:—

“the grave international tension that had developed in another part of the world could not make them forget the sufferings of the Chinese people, their duty of doing nothing that might weaken China’s power of resistance, or their undertaking to consider how far they could individually extend aid to China.”

The Chinese representative accepted this resolution, but reserved the right to appeal to the League again for co-operation.

During the following year, 1939, the deterioration of the international situation rendered it impossible for the League or its members to give any further material or moral assistance to China.

(1) *League Year by Year*, 1938, p. 73 et seq.
L. DEVELOPMENTS IN THE INTERNATIONAL SITUATION IN EUROPE 1937–39

The Spanish War, being a civil war, was not a violation of any international undertakings, until, as a result of the intervention of the Italian and German forces on one side and Russian forces on the other, it took on the nature of an international war. To prevent the conflict spreading beyond the confines of Spain, the London Non-Intervention Committee, supported by the Council and Assembly of the League, worked to ensure that the fight was a purely civil one. From the point of view of international law, however, the Nyon Agreement of 14th September 1937,(1) which declared that attacks by submarines against merchant ships not belonging to either of the conflicting Spanish parties, should be treated as acts of piracy, is of interest.

Following the murder of King Alexander of Yugoslavia and M. Barthou of France, in Marseilles in October 1934, and the consequent failure of the French Government to secure from Italy the extradition of the assassins on the grounds that the crime committed had been of a political character and therefore not extraditable, a Committee of Experts was appointed by the Council in May 1935(2) to prepare a draft convention for the Repression of Terrorist Outrages. This resulted in the International Conference on the Repression of Terrorism which met in Geneva in November 1937, and drew up the Convention on the subject which was signed by 24 States, of which the Soviet Union was the onlyMajor Power. Attached to the Convention for the Repression of Terrorism(3) was a Convention for the Creation of an International Court, to try persons accused of terrorist activities, whom the States concerned prefer not to try in their own courts.(4)

After Hitler came to power in Germany, the Nazis had been pursuing the policy of infiltration into Austria through the growth of the Nazi party there. Matters came to a head in January 1938, when the Schuschnigg Government unearthed details of a Nazi plot to overthrow the existing Government and to replace it by a Chancellor of Nazi complexion, such as Seyss-Inquart.(5) On 5th February 1938 Schuschnigg was invited to see Hitler at Berchtesgaden, where he was presented with a demand that he should grant an amnesty to all political prisoners, make legal the holding of Nazi meetings and appoint Seyss-Inquart to the key Ministry of Public Order and Security. Threatened with the invasion of Austria, Schuschnigg was compelled to accept these terms, in return for which Hitler promised to respect the continued independence of Austria.

As a result of the political amnesty and the legalising of Nazi party meetings, the situation in Austria became more and more disorderly, with the Nazis in practical control of certain towns, such as Graz. On 9th March 1938 Schuschnigg, in an attempt to regain control of the situa-

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(1) League from Year to Year, 1937.
(3) League of Nations publication Proceedings of the International Conference on the Repression of Terrorism, C.94.M.47. 1938V.
(4) For further details of this Convention see Chapter XIV, Section A. (ii) (6) p. 440.
tion, announced that a plebiscite would be held on 13th March, but on 10th March he was forced by Seyss-Inquart to resign, following the presentation of three ultimatums by Germany. On 11th March Schuschnigg announced over the wireless that he was resigning, following receipt of an ultimatum from Germany and that, to prevent bloodshed, Austrian troops had been ordered not to resist. That night German troops, already massed on the frontier, started to move and on 12th March Seyss-Inquart was appointed Chancellor, the Germans occupied Austria and Hitler arrived in the country. By 13th March the Anschluss was complete. Hitler had planned his aggression so skillfully that he achieved his coup without the active intervention of any of the other Powers.

Similarly, in the early Autumn of 1938 the Germans began to stir up their Nazi agents in the Sudetenland of Czechoslovakia. In August a British representative, Lord Runciman, was sent to Czechoslovakia to act as arbiter between the Czech Government and the Sudeten Germans under Henlein. On 2nd September Henlein went to Berchtesgaden to confer with Hitler, and, on his return, presented a further plan to the Czech Government for the settlement of the situation. The position deteriorated, with the Sudeten party breaking off negotiations on 7th September and resuming them again two days later. Then, on 13th September, the Sudeten party presented an ultimatum to the Government, which was refused, and, on 15th September, Henlein demanded the cession of Sudetenland to Germany. The British Prime Minister flew to Berchtesgaden on 15th September, returning to London the next day. The French Prime Minister Daladier and Foreign Minister Bonnet visited Downing Street on 18th September, while the Czech Prime Minister broadcast the refusal of his Government to hold a plebiscite. On 19th September the Czech Government was presented with the Franco-British plan, which it accepted with reservations; on 22nd September Mr. Chamberlain flew to Godesburg to see Hitler, while the Czech Government resigned. That same day, in Geneva, M. Litvinov announced the readiness of the U.S.S.R. to support Czechoslovakia if France would do so, and general mobilisation was ordered in Czechoslovakia. On 24th September Chamberlain returned to London and the Godesburg terms were sent to Prague. The French Prime Minister and Foreign Minister again visited London, and the Czech Government rejected the Godesburg terms. On 26th September, when President Roosevelt appealed to Hitler and Dr. Benes to come to terms, Hitler, in a speech, threatened to use force unless Sudetenland was ceded to Germany. The following day he announced that German troops were prepared to enter Czechoslovakia. On 28th September Chamberlain, Mussolini and Daladier attended a conference at Munich, at which they signed the Four Power Pact, but, on 1st October, the German troops entered the Sudetenland and Henlein was appointed the Commissioner of that area. On 5th October President Benes resigned and on 30th October Henlein was appointed Gauleiter of the Sudetenland, which was thus incorporated into the Reich. The rape of Czechoslovakia had thus begun and Hitler carried his action to its next stage by marching into Prague in March 1939 and annexing the whole of Bohemia and Moravia.

(1) Toynbee’s Survey, 1938, Vol. II.
Although these actions were in violation of Germany's treaty agreements, particularly of the Pact of Paris renouncing war as an instrument of national policy, owing to the military weakness of the other Powers, Germany was able to annex Czechoslovakia without shedding the blood of her own forces.

M. PAN-AMERICAN CONFERENCES, CONVENTIONS AND TREATIES 1923–38

By 1920 there were already in existence in the Americas two bodies whose duty it was to safeguard relations between the American Republics. The first of these was the Pan-American Union, which consisted of the diplomatic agents of these States accredited to Washington, under the chairmanship of the U.S. Secretary of State. The second was the system of inter-American conferences held every five years. It was at these latter meetings that much work was done to safeguard peace in the Americas during the years between the two World Wars.(1)

(i) THE FIFTH PAN-AMERICAN CONFERENCE AT SANTIAGO IN 1923

At the Fifth Pan-American Conference which met at Santiago from March to May 1923(2) the American States drew up and signed a Treaty to Avoid Conflicts Between the American States, which came to be known as the Gondra Treaty. By this Treaty, States agreed to submit to arbitration all disputes which could not be settled by diplomatic methods. Two permanent commissions of inquiry were to be established at Washington and Montevideo, to consist of the three diplomatic agents longest accredited to those capitals. The functions of these commissions were limited to receiving from the interested parties the request for a convocation of a commission of inquiry, and notifying the other party thereof. The ad hoc commissions of inquiry were to consist of two members appointed by each Government, but only one of each to be a national of that State and a fifth, to be of yet another nationality, to be chosen by common accord. The fifth member was to act as president of the commission. The commission must report within a year, and the States concerned undertook not to commence hostilities until six months after the commission had reported. If, after these delays, the parties were still unable to settle their differences, each of them was to recover its freedom of action. The disadvantage of this machinery was that one of the contestants could, if it so desired, postpone the establishment of a commission of inquiry by refusing to name its commissioners. The Treaty was signed by the eighteen States present at the Conference, with the subsequent adherence of Costa Rica, Mexico, Peru and Salvador, but it was never ratified by Bolivia or the Argentine.

The Costa Rican delegation had put forward a proposal for the creation

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(1) The Inter-American System, A Canadian View by John Humphrey. Published by MacMillan for the Canadian Institute of International Affairs.
of a Permanent Court of American Justice, but this matter was shelved by being referred to a Committee of Jurists which was to meet in Rio de Janeiro in 1925. Uruguay also produced a proposal for the establishment of an American League of Nations, but the matter was not favoured by the United States and was shelved.

(ii) THE SIXTH CONFERENCE AT HABANA IN 1928

The Sixth Pan-American Conference which met at Habana, Cuba, in January and February 1928 passed two important resolutions concerning the maintenance of peace. In connection with the crime of aggression the Conference declared:

- That there is no international controversy, however serious it may be, which cannot be peacefully arranged if the parties desire in reality to arrive at a pacific settlement;
- That war of aggression constitutes an international crime against the human species;
- (The Assembly therefore) resolves:
  1. That aggression is considered illicit and as such is declared prohibited.
  2. The American States will employ all pacific means to settle conflicts which may arise between them.

The second resolution, after stating that the American Republics condemn war as an instrument of national policy in their mutual relations, continued with a declaration that they would adopt obligatory arbitration as the means of securing pacific settlement of international differences, and agreed that a Conference should meet at Washington within a year to draw up a convention to this effect.

(iii) THE WASHINGTON CONFERENCE ON CONCILIATION AND ARBITRATION, 1928

The Inter-American Conference on Conciliation and Arbitration consequently met in Washington from 10th December 1928 to 5th January 1929. This drew up three instruments for the pacific settlement of disputes, first, a Convention of Conciliation, by which the commissions of inquiry set up by the Gondra Treaty were to be commissions of conciliation as well; this was signed by all the American Republics except the Argentine, and subsequently ratified by eighteen of them. The second was the General Treaty of Inter-American Arbitration, which bound the contracting parties to submit to arbitration any dispute which could be decided by the application of legal principles. The Treaty, however, set up no permanent arbitration body, since in each case the arbiter or tribunal was to be decided by the disputants, and no sanctions were to be applied. It was, in effect, nothing more than an agreement to agree to arbitrate. The third instrument was a Protocol of Progressive Arbitration, which did not receive many ratifications.

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(1) Brown Scott, op. cit. p. 283.
(2) Humphrey, op. cit. p. 86.
(3) Brown Scott, op. cit. p. 441.
(4) Brown Scott, op. cit. p. 437.
It was while the Conference was sitting that the Chaco War\(^{(1)}\) broke out. The Conference offered its good offices for the purpose of promoting conciliatory machinery, and appointed a special committee to follow developments. As a result of the action of this committee, the two Governments signed a protocol creating a conciliation commission, but it was not set up under the new Washington machinery, or even under the Gondra Treaty, since that had never been ratified by Bolivia, one of the parties to the dispute.

(iv) THE ARGENTINE ANTI-WAR TREATY (SAAVEDRA LAMAS TREATY), 1933

The Argentine had not been represented at the Washington Conference, and in 1933 initiated a Peace Pact of its own. This was the Anti-War Treaty of Non-Aggression and Conciliation, which was known as the Saavedra Lamas Treaty, after the Argentine Foreign Minister who initiated it. It was signed at Rio on 10th October by Argentine, Brazil, Chile, Mexico, Paraguay and Uruguay and was open to the adherence of all States.\(^{(2)}\)

Under Article I of this Treaty the contracting Parties solemnly declared that

"they condemn wars of aggression in their mutual relations or in those with other States, and that the settlement of disputes or controversies of any kind that may arise among them shall be effected only by the pacific means which have the sanction of international law."

Under Article II they declare that they "will not recognise any territorial arrangement which is not obtained by pacific means, nor the validity of the occupation or acquisition of territories that may be brought about by force of arms." The contracting Parties therefore obliged themselves to resort to conciliation or other peaceful means of settling disputes. This Treaty thus combined the provisions of the Pact of Paris with the doctrine of non-recognition enunciated by the U.S. Secretary of State on 7th January 1932 and the League resolution of 11th March 1932.\(^{(3)}\)

Paraguay signed the Pact although she was engaged in hostilities with Bolivia over the Chaco at the time. This Pact was subsequently signed by all the Latin-American States and ratified by the United States. Italy and Spain also acceded to it.\(^{(4)}\)

(v) THE SEVENTH CONFERENCE AT MONTEVIEIO IN 1933

In December 1933, when the Seventh Pan-American Conference met at Montevideo, the Chaco war was being waged. The League Commission sent to negotiate on the spot\(^{(5)}\) had just arrived in Montevideo, and the Conference offered it all its support.

The Executive Committee of the American Institute of International Law had suggested the creation of a body to be known as the International American Commission of Conciliation. Its intention was to replace the two permanent commissions under the Gondra Treaty. This proposal was

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\(^{(1)}\) See Section H, p. 62 for details of the Chaco War.

\(^{(2)}\) Brown Scott, op. cit. First Supplement, pp. 496-499.

\(^{(3)}\) See Section K, pp. 71 & 72 Sino-Japanese War.

\(^{(4)}\) Monthly Summary, Vol. XIV, p. 159.

\(^{(5)}\) See Section H, p. 64, the Chaco War.
not, however, accepted by the Conference, but an Additional Protocol to the General Convention of Inter-American Conciliation was adopted under which the signatories undertook to constitute permanent commissions of investigation and conciliation to take the place of the ad hoc commissions under the Gondra Treaty.\(^1\) The Mexican delegation to the Conference proposed the adoption of a Peace Code, which would assimilate the various instruments for the pacific settlement of international disputes; this contained inter alia provision for the establishment of an American Court of International Justice.\(^2\) This suggestion was shelved by the Conference, but instead the delegates declared their intention to try and interest their respective Governments in signing instruments such as the Gondra Treaty, the Pact of Paris, the two Washington Treaties of 1929 and the Argentine Anti-War Treaty, if they had not already done so.

(vi) THE BUENOS AIRES PEACE CONFERENCE, 1936

The end of the Chaco war, which was finally brought about in June 1935 by the combined mediation of the five neighbouring States and the United States, provided a reason for holding a special Inter-American Peace Conference at Buenos Aires in December 1936.\(^3\)

A number of perennial suggestions were submitted to this Conference and shelved, for instance: the suggestion for the establishment of an Inter-American Court of International Justice, the proposal for the creation of an Inter-American League of Nations, and the Mexican recommendation for a Peace Code. With regard to the humanisation of war, the Conference passed a resolution to the effect that:\(^4\)

1. it declared the formal repudiation of war as a means of settling differences between States;
2. it proscribed the use of chemical elements of warfare;
3. it excluded civilian populations as far as possible from the effects of international conflagrations;
4. it recommended to Governments that in the pacts they conclude for the limitation of armaments they should exclude by statute such methods of war as use of poison gas, poisoning of water, etc.

The Conference drew up a Convention for the Maintenance, Preservation and Re-establishment of Peace\(^5\) in which, having noted that almost all civilised States had ratified the Pact of Paris and that twenty-one States had approved the Saavedra Lamas Pact, the High Contracting Parties agreed that, in the event of the peace of the American Republics being menaced, the Governments of the other American Republics should consult together. In the event of war between two American States, the others should take joint action to bring about a peaceful settlement; this would also apply in the event of a threat from a non-American State.

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\(^1\) Brown Scott, First Supplement, p. 120.
\(^2\) Brown Scott, First Supplement, pp. 50-65.
\(^3\) Humphrey, op. cit. p. 131 et seq and Brown Scott, First Supplement, p. 143 et seq.
\(^4\) Brown Scott, First Supplement, pp. 164-65.
\(^5\) Brown Scott, First Supplement, pp. 188-190.
The Conference also drew up a Treaty of Good Offices and Mediation, whereby it was agreed that when there is a controversy between States which cannot be settled by diplomatic means, the contracting Parties might choose to have recourse to the good offices and mediation of an eminent citizen of one or other of the American countries. To this end, each Government agreed to nominate two such of their nationals, and communicate their names to the Pan-American Union.

(vii) THE EIGHTH CONFERENCE AT LIMA IN 1938

The Eighth Pan-American Conference which met in Lima in December 1938(1) was much concerned with the question of assembling and codifying the various agreements for the peaceful settlement of disputes which had been signed, and the proposals which had not yet been officially adopted, such as for an Association of American Nations, a Peace Code, and the United States proposal for the Consolidation of American Peace Agreements. The Conference referred these matters to a committee of experts, and attempted to define an aggressor and to decide on a system of sanctions in the event of aggression, but no satisfactory conclusion was reached and the matter was shelved. The plan for the creation of an Inter-American Court of International Justice was also shelved. In a resolution in defence of human rights(2) the Conference declared that the American Republics did not recognise war as a legitimate means of settling national or international controversies; the hope was also expressed that if war were waged in any part of the world "respect would be given to those human rights not necessarily involved in the conflict, to humanitarian sentiments and to the spiritual and material inheritance of civilisation." Again, in a Declaration of American principles,(3) the use of force as an instrument of national or international policy was proscribed and it was declared that relations between States should be governed by the precepts of international law.

The most important resolution of the whole Conference was the Declaration of the Principles of the Solidarity of America(4), which became known as the Declaration of Lima. Under item four of this Declaration, it was decided that

"in order to facilitate the consultations established in this and other American peace instruments, the Ministers of Foreign Affairs of the American Republics, when deemed desirable and at the initiative of any one of them, will meet in their several capitals by rotation and without protocodial character . . . ."

The first meeting of the Ministers of Foreign Affairs of the American Republics for consultation under the Agreements of Buenos Aires and Lima was held at Panama on 23rd September 1939, on the outbreak of the European War. It was the Foreign Minister of Panama, one of the smallest of the American Republics, who summoned the Conference.

Thus, during the years between the two World Wars, the Republics of the Americas were building up a system of international law outlawing war and setting up machinery for the peaceful settlement of disputes

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(1) Brown Scott, First Supplement, p. 243 et seq and Humphrey, p. 152.
(2) Brown Scott, First Supplement, p. 245.
between them, or of action in the event of war or threat of war, which should ensure peace in that hemisphere.

N. INTERNATIONAL CONVENTIONS ESTABLISHING RULES OF WARFARE

(i) GENEVA PROTOCOL FOR THE PROHIBITION OF THE USE OF POISONOUS AND OTHER GASES AND OF BACTERIOLOGICAL METHODS OF WARFARE

On 17th June 1925 thirty-nine nations, at Geneva, signed a Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous and other Gases and of Bacteriological Methods of Warfare.\(^1\) Under the terms of this Protocol the High Contracting Parties declared that, whereas the use in war of asphyxiating, poisonous and other gases and all analogous liquids, materials and devices, had been justly condemned by the general opinion of the civilised world, they agreed that, so far as they were not already parties to Treaties prohibiting such use, they accepted this prohibition and agreed "to extend this prohibition to the use of bacteriological methods of warfare." Twenty-five nations, including Great Britain and each of the Dominions, France, Germany, Italy, China and the Soviet Union but not Japan, had given their adherence to this document by 6th May 1930.

(ii) INTERNATIONAL CONVENTION FOR THE AMELIORATION OF THE CONDITION OF THE WOUNDED AND SICK IN ARMIES IN THE FIELD

This Convention was signed at Geneva by the representatives of forty-seven states on 27th July 1929.\(^2\) Its provisions laid down that officers and soldiers of the armed forces who are wounded or sick should be treated with humanity, though those who fall into enemy hands should be regarded as prisoners of war. It also laid down that the personnel of medical and similar units must be respected and protected by the belligerents, so long as they do not violate the privileges to which their position entitles them. Persons of this nature, such as doctors, padres, etc., thus exempted from normal treatment as prisoners of war, should be sent back to the belligerent state to which they belong as soon as a route for their return should be open and military considerations permit. Such privileged persons should wear the distinctive sign of the Red Cross, the Red Crescent or the Red Lion and Sun, as appropriate, and Governments should make it their responsibility to ensure that these signs are not used as trade marks or for any other purpose than that laid down in the Convention. Provisions were also made for the safeguarding of these rights by members of the Protecting Power and the facilities which should be granted by belligerents to representatives of the Protecting Power. The Convention was to come into force six months after two ratifications had been received; it could be denounced subject to a year's notice, but such denunciation might not take effect during a war in which the denouncing power was involved.

Germany, Italy and Japan were among the nations signing this Convention, but by 23rd June 1931, when the United Kingdom signed on behalf

\(^1\) H.M.S.O. Treaty Series, No. 24 (1930), Cmd. 3604.
\(^2\) H.M.S.O. Treaty Series, No. 36 (1931), Cmd. 3940.
of the Dominions, Italy was the only one of these three countries which had ratified it.

(iii) INTERNATIONAL CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR

This Convention(1) was signed at Geneva, also by forty-seven governments, on the same day as the International Convention concerning the Condition of Sick and Wounded in the Field. The intention of this Convention was to ameliorate the "inevitable rigours" which must be suffered by prisoners of war. Its provisions were to apply to the persons referred to in the Hague Convention of 18th October 1907 concerning the Laws and Customs of War on Land, who are captured by the enemy, namely, members of the armed forces, militia or volunteer corps, on condition that they are commanded by a person responsible for his subordinates, that they wear a distinctive sign, that they carry arms openly and that they conduct their operations according to the laws and customs of war. Prisoners of war are declared to be in the power of the hostile government, not of the individuals or formations which capture them and measures of reprisal against them are forbidden. On capture every prisoner of war is required to declare his true name and rank or his regimental number, but no pressure may be exerted on prisoners to obtain information regarding the situation in their armed forces or their country. Prisoners should be evacuated from the fighting area as soon as possible, and belligerents should notify one another of details of their captures as soon as possible. Prisoners of war should be lodged in buildings or huts which afford all possible safeguards concerning hygiene and salubrity. Premises must be entirely free from damp and adequately heated and lighted. Food should be equivalent to that of the depot troops of the detaining authority and all collective disciplinary measures affecting food are prohibited. Provisions were also made for:—hygiene in camps; satisfying the intellectual and moral needs of prisoners; internal discipline in camps; pecuniary resources of prisoners and their transfer from one camp to another. With regard to their relations with the exterior, prisoners must be enabled to correspond with their families, within the limit of the number of letters and postcards per month allowed them by the detaining authority. Prisoners should be enabled to bring complaints to the attention of the military authorities and should have the right to communicate with the Protecting Power. They should have a representative, usually the senior officer of the camp, who could put forward their complaints. With regard to punishment, imprisonment is the most severe disciplinary punishment which could be inflicted on a prisoner and the duration of this must not exceed thirty days. With regard to judicial action, the prisoner should be allowed full rights of defence. Provisions were also made for:—the repatriation through a neutral country of prisoners, and their liberation and repatriation at the end of hostilities; action in the event of the death of a prisoner and the establishment of Bureaux of Relief and Information. Civilians attached to the armed forces, such as war correspondents and contractors, were to be treated as prisoners of war if they fell into enemy hands. As with the other Convention, this one

(1) H.M.S.O. Treaty Series, No. 37 (1931), Cod. 3941.
was to come into force six months after two ratifications had been deposited. By 23rd June 1931, when Great Britain ratified it on behalf of herself, Australia, New Zealand, South Africa and India, the only other States which had adhered to it were Italy, Norway, Portugal, Spain, Sweden, Switzerland and Yugoslavia.

(iv) PROCES-VERBAL RELATING TO THE RULES OF SUBMARINE WARFARE SET FORTH IN PART IV OF THE TREATY OF LONDON OF 22ND APRIL 1930

Since the London Naval Treaty of 1930 for the Limitation and Reduction of Naval Armaments was not ratified by all its signatories and was due to expire on 31st December 1936, with the exception of Part IV thereof, which dealt with the action of submarines with regard to merchant ships, representatives of the Governments of the United States, Australia, Canada, France, Great Britain, India, Eire, Italy, Japan, New Zealand and South Africa came together in London on 9th November 1936, and agreed to the following rules, to which they invited other Governments to accede:

(1) "In their action with regard to merchant ships, submarines must conform to the rules of international law to which surface vessels are subject.

(2) "In particular, except in the case of persistent refusal to stop on being duly summoned, or of active resistance to visit or search, a warship, whether surface vessel or submarine, may not sink or render incapable of navigation a merchant vessel without having first placed passengers, crew and ship's papers in a place of safety. For this purpose the ship's boats are not regarded as a place of safety unless the safety of the passengers and crew is assured, in the existing sea and weather conditions, by the proximity of land, or the presence of another vessel which is in a position to take them on board."

O. THE ACTIVITIES OF UNOFFICIAL BODIES

(i) THE INTERNATIONAL LAW ASSOCIATION

This body held meetings annually, at some of which matters affecting the laws of war were discussed. For instance, at its Thirtieth Conference held at The Hague in 1921, it considered a proposal that there should be a codification of the laws of war, which was not implemented, and it also adopted certain Proposed International Regulations for the Treatment of Prisoners of War.

At the Thirty-first Conference held at Buenos Aires, it was resolved that the creation of an International Criminal Court was essential in the interests of justice. Dr. H. L. Bellot consequently presented to the Thirty-third Conference, which met at Stockholm in 1924, a draft Statute for the Permanent International Criminal Court. The Conference, after much discussion, however, referred the matter to a committee for further examination.

Encouraged by the reception which had been accorded to the "Proposed International Regulations for the Treatment of Prisoners of War" prepared in 1921, the Association had acted upon the request made to it after the Hague Conference by the Committee of the International Red

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(1) H.M.S.O. Treaty Series, No. 29 (1936), Cmd. 5302.
(4) For more details of this International Court see Chapter XIV, Section A (ii) (2) p. 438.
Cross, to collaborate in framing regulations for the treatment of civilian prisoners of war. Accordingly, a Committee was set up to investigate the matter, and the Stockholm Conference adopted, with small amendments, the "Draft Regulations for the Treatment of Civilian Prisoners of War" submitted to it by this Committee. The Committee had not attempted to deal with the question of deportation of interned and other civilian prisoners, but left this task to be dealt with at a later date. The Conference also discussed, without reaching any definite conclusions, certain suggested regulations for War in the Air.

The Thirty-fourth Conference of the Association, held at Vienna in 1926, was largely concerned with discussing new proposals submitted for the creation of an International Criminal Court. The crimes which were to be included in the jurisdiction of the Court were: violations of any treaty, convention or declaration binding on the States which regulate the methods and conduct of warfare and violations of the laws and customs of war generally accepted as binding by civilised nations.

The Thirty-sixth Conference, which was held in the United States in 1931, was largely concerned with neutral rights at sea. Two resolutions were discussed, which seemed logically to result from observance of the Pact of Paris, the one refusing belligerent rights to pact-breakers as against neutral trade, and the other condemning the supply by neutrals of any aid or comfort to a pact-breaker. No conclusion was reached, however, because a minority managed to adjourn the discussion.

The subject of neutrality was again discussed at the Thirty-seventh Conference held at Oxford in 1933. Opinions expressed in the discussion showed that many members thought that the principle of neutrality should be abandoned, on the grounds that under the Covenant of the League, the Pact of Paris and other international instruments, the old-fashioned laws of neutrality were obsolete. It was decided that a study should be made of the subject, as affected by these conventions.

The result of this was the important discussion held by the Association at its Thirty-ninth Conference in Budapest in 1934. The Committee on Conciliation between Nations presented a report to the Conference on the effect of the Kellogg-Briand Pact on international law. The report suggested Articles of Interpretation, which were adopted with slight modifications by the Conference.

These Budapest Articles of Interpretation opened with a recognition that the Pact is a multilateral law-making treaty whereby each of the High Contracting Parties makes binding agreements with each other and all the other High Contracting Parties and recites the purpose of the Treaty. It recognised inter alia that a signatory State cannot by denunciation or non-observance of the Pact release itself from its obligations thereunder; that a signatory State by threatening a resort to armed force or aiding a violating State itself violates the Pact; that a non-belligerent

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(3) British Year Book of International Law, 1931, p. 142.
(4) British Year Book of International Law, 1933, p. 158.
State may refuse to a violating State the rights of visit and search, blockade, etc., and decline to observe the old-fashioned duties of a neutral, but on the other hand may even with armed forces assist the State attacked, without itself violating the Pact. It also declared that signatory States are not entitled to recognise territorial or other advantages acquired by a violating State, as having been acquired de jure, but that such a State must indemnify all damage caused by it.

The Conference also passed additional resolutions recognising the right of all signatory States to insist on their interests being safeguarded in a subsequent treaty of peace, and reminding States of their duty to enact domestic legislation without delay to implement their treaty obligations.

The Conference held in Paris in September 1936 adopted a substantive declaration which aimed at invoking the speedy jurisdiction of the Permanent Court of International Justice in the case of any violation of the Pact of Paris, and the Conference which met in Amsterdam in 1937, considered the question of neutrality in the light of the Pact of Paris, but had such a full programme that it reached no satisfactory conclusion.

(ii) OTHER UNOFFICIAL BODIES

There were other bodies engaged in the study of questions of international law during the period between the wars, for instance, the Institute of International Law, the Hague Academy of International Law and the Grotius Society. These were not, however, much concerned with questions effecting crimes against peace or war crimes.

In October 1934, however, the Institute of International Law, at a meeting in Paris, discussed the subject of reprisals. It was considered that reprisals, being the use of force falling short of war, had a particular importance in the light of the Pact of Paris and the conciliation procedure under the League. The Institute adopted a resolution defining the limits within which reprisals might still be effective; they must not involve the use of military, naval or air force but, being declared a matter of international concern, must be subject to international supervision.

The Hague Academy of International Law was an organisation to promote the study of international law, by experts of all nations, but it made no constructive contribution to the conception of war crimes or the laws of war.

(1) *British Year Book of International Law*, 1935, p. 181.
(2) See article by E. N. Van Kleffens in the *British Year Book of International Law*, 1925.