

THE ROLE OF THE RAPPORTEUR

IN
THE LEAGUE OF NATIONS

by

Solomon M. Nkiwane

A thesis submitted to the Faculty of Graduate Studies
and Research in partial fulfilment of the
requirements for the degree of
Doctor of Philosophy

Department of Political Science,
McGill University,
Montreal, Canada.

March, 1975.

ABSTRACT

The Rapporteur System was an important element in the smooth and efficient running of the League of Nations. Its greatest potential was clearly manifested, however, in the management of international conflict. For, for the first time in the history of international organization a bold attempt was made to develop a dependable method for the peaceful settlement of international disputes. However, with the collapse of the League of Nations after World War II, the Rapporteur System seems also to have come to an end. Certainly, no technique exists today in international organization which is similar to the Rapporteur of the League except perhaps in name. If this study of the Rapporteur System, therefore, can help to throw some new light and arouse some interest in that unique experiment, then it will have served a useful purpose.

Name: Solomon M. Nkiwane.

Title of Thesis: The Role of the Rapporteur in the League of Nations.

Department: Political Science.

Degree: Doctor of Philosophy.

RÉSUMÉ

Le Système Rapporteur fut un facteur important du fonctionnement souple et efficace de la Société des Nations. Ce n'est toutefois que dans l'orientation du conflit international que ses possibilités se sont le plus clairement manifestées. En effet; pour la première fois dans l'histoire d'une organisation internationale, une tentative hardie était faite afin d'établir une méthode sûre, destinée à régler pacifiquement les querelles internationales. Cependant, la dissolution de la Société des Nations après la Deuxième Guerre Mondiale, semble avoir aussi annoncé la fin du Système Rapporteur. Il n'existe certes aujourd'hui aucune technique semblable au Système Rapporteur, sauf peut-être nominalement, au sein des organisations internationales. Donc, si la présente étude du Système Rapporteur peut aider à éclairer davantage ce système et susciter l'intérêt dans cette expérience unique en son genre, elle aura alors servi une cause valable.

Nom: Solomon M. Nkiwane

Titre de la thèse: Rôle du Système Rapporteur dans la Société
des Nations

Département: Sciences Politiques

Degré: Doctorat en philosophie

PREFACE

The use of Rapporteurs in the League of Nations was a unique and interesting experiment in international mediation and peaceful settlement of international disputes. Through that system League Council representatives of member states, acting more or less in their private capacities, but otherwise ultimately responsible to the Council of the League of Nations, became instrumental in the successful settlement of a large proportion of international disputes which were brought to the attention of the League Council. Unfortunately, that role and the potential of the League of Nations' Rapporteur has, by and large, remained untapped, unreported and unknown. Moreover, it would appear that with the collapse of the League of Nations at the end of World War II the essentials of that Rapporteur technique also came to an abrupt end. In this study, the nature of the Rapporteur in the settlement of international disputes, will be explored.

The study is based on research materials gathered from several centres in North America and Europe. The United Nations libraries in New York and Geneva, Switzerland, were visited and consulted with regard to basic documents on the League Council and the Rapporteur in the League of Nations.

Primary sources were also sought and consulted in the Public Archives Records Centre in Ottawa, Canada; at the Manuscript Division of the Library of Congress in Washington, D.C.; and the Main Library at Princeton University, New Jersey. Four centres were visited in

Great Britain; the Main Library of the University of Birmingham, the Bodleian Library at Oxford University and the Beaverbrook Library and the Records Office in London. Besides these documentary sources, interviews were sought, where and when possible, with individuals who, because of their special knowledge of the League of Nations, would have been expected to throw some light on the subject. On this point, it might be appreciated that very few people who were actually involved in the League of Nations are still readily available for interviews, as most of those who are still alive are quite advanced in age. Thus, the study was basically designed to rely more on documents than on interviews.

The core of the study is arranged in four chapters. Chapter II consists of a general description of the nature and kinds of Rapporteurs used in the League of Nations. Chapter III provides a general overview of the international disputes which were handled by the League of Nations during its entire period of existence. Chapters IV and V contain the detailed descriptive analyses of the role of the Special Rapporteur in several selected international disputes, in particular, with respect to the different mediatory roles in which special Rapporteurs found themselves. There is also a short chapter (Chapter VI) which deals with the role of committees—Rapporteurs' Committees—including those provided for in the Minorities Treaties. Chapter VII constitutes the conclusion to the study.

Finally, it needs to be stated that this study would not have been undertaken, let alone completed, without the assistance of many

individuals and institutions. In particular, I wish to acknowledge first the McGill Faculty of Graduate Studies and Research and the Canadian International Development Agency for their generous financial assistance, in the form of Fellowships, that enabled me to travel to various places, including several centres in Europe.

I am also deeply grateful to Professors Blema Steinberg and James Mallory of McGill University for their patience and guidance.

Last, but not least, to my wife, Josephine, who put up with a great deal of inconvenience on my behalf, I say thank you. I wish only to add that all these individuals and institutions cannot be held accountable for any weaknesses in this dissertation.

S. M. N.

TABLE OF CONTENTS

	<u>Page</u>
PREFACE	iv
 <u>Chapter</u>	
I INTRODUCTION	1
II RAPPORTEURSHIP AND THE LEAGUE OF NATIONS	17
1) Origins of the League's Rapporteur System	17
2) The Committee Rapporteur	24
3) The Regular Rapporteur	30
4) The Special Rapporteur	39
III THE RAPPORTEUR AND INTERNATIONAL DISPUTES: AN OVERVIEW.	48
1) Covenant Provisions.	48
2) International Disputes	51
3) Limited Rapporteurship	54
4) Disputes Handled by the Council of the League of Nations	60
5) Great Powers and Lesser Powers	67
6) Selected Disputes	79
IV RAPPORTEURSHIP AND THE GREAT POWERS	84
1) The Corfu Incident (1923): Great Power v. Middle Power.	87
2) Eupen and Malmedy (1920-21): Great Power v. Small Power	101
3) The Sanjak of Alexandretta and Antioch (1936-37): Great Power v. Middle Power	125

TABLE OF CONTENTS (Cont'd)

<u>Chapter</u>		<u>Page</u>
V	RAPPOORTEURS AND THE LESSER POWERS	142
	1) The Demir Kapu Incident (1925): Middle Power - v. Small Power	144
	2) The Aaland Islands Question (1920-21): Middle Power v. Small Power.	154
	3) The Vilna Dispute (1920-23): Middle Power v. Small Power.	171
	4) The Hungarian Optants (1923): Small Power v. Small Power.	187
	5) Successful Rapporteurship	198
VI	COMMITTEES OF RAPPOORTEURS AND PEACEFUL SETTLEMENT	208
	1) Committees of Independent Experts	209
	2) Rapporteurs' Committees Formed from Council Members	214
	3) Committees Under the Minorities Treaties	234
VII	CONCLUSION.	242
	BIBLIOGRAPHY.	256

CHAPTER I

INTRODUCTION

The practice whereby Rapporteurs were used by the Assembly and Council of the League of Nations to promote the efficiency of their operations was not an entirely new phenomenon. Similar procedures had been known and developed in several continental European countries, particularly in France, long before the founding of the League of Nations. What could be considered novel about the technique was its employment in an international setting rather than a domestic one. Moreover, the fact that the Rapporteur became an effective instrument for the peaceful settlement of international disputes was both new and significant. The purpose of this study is to examine how the Rapporteur system of the League of Nations worked and, in particular, to explore the way the technique was utilised by the League Council to settle international disputes.

While an enormous body of material exists on the League of Nations,¹ there is no study, at this writing, on the role of the Rap-

¹A vast literature on the League of Nations, especially on its history, exists. The best works would include the following: Francis Paul Walters, A History of the League of Nations (London: Oxford University Press, 1952); Sir Alfred Zimmern, The League of Nations and the Rule of Law (London: Macmillan & Co. Limited, 1936); Viscount Cecil of Chelwood, A Great Experiment (New York: Oxford University Press, 1941); C. Howard-Ellis, The Origin, Structure and Working of the League of Nations (London: George Allen & Unwin, 1928); Arthur Sweetser, The League of Nations at Work (New York: The Macmillan Co., 1920); John Spencer Bassett, The League of Nations

porteur in the League of Nations.² In fact, the Rapporteur phenomenon seems to have attracted little serious attention from scholars other than a few perfunctory and laudatory comments.³

What is even more intriguing about this lack of information on the League's Rapporteur technique is that at one point after the Second World War, the United Nations appeared to be interested in developing

(New York: Longmans, Green and Co., 1928); Denys Myers, Handbook of the League of Nations (New York: World Peace Foundation, 1935).

The best works focussing on specific aspects of the League of Nations' activities would include the following: James Barros, The Aland Islands Question: Its Settlement by the League of Nations (New Haven: Yale University Press, 1968); James Barros, The Corfu Incident of 1923 (Princeton, N.J.: Princeton University Press, 1965); James Barros, Betrayal from Within (New Haven: Yale University Press, 1968); James Barros, The League of Nations and the Great Powers (Oxford: At the Clarendon Press, 1970); E. Margaret Burton, The Assembly of the League of Nations (Chicago: The University of Chicago Press, 1941); Pablo de Azcarate, League of Nations and Minorities (Washington: Carnegie Endowment for International Peace, 1945); H. R. G. Greaves, The League Committee and World Order (London: Oxford University Press, 1931); T. P. Conwell-Evans, The League Council in Action (London: Oxford University Press, 1928); David Hunter Miller, The Drafting of the Covenant, 2 vols. (New York: G. P. Putnam's Sons, 1928).

²In a communication to the writer dated 28th April, 1971 (Ref. G 11A 5/193892), Srew Welander, Chief of Historical Collections Section in the United Nations Library, Geneva, stated: "I can inform you that ... the League of Nations Archives have not brought to light any files treating the institution of Rapporteur as such."

³"The Rapporteur filled a vital role in the practice of the League of Nations," by Sydney Bailey, The General Assembly of the United Nations (London: Stevens & Sons Limited, 1960), p. 148; "Many times in the course of its existence, the Council had cause to be grateful for the exertions of its Rapporteurs," by Walters, op. cit., p. 596; "It is an interesting and instructive performance," by Pitman B. Potter, An Introduction to the Study of International Organization (New York: The Century Company, 1927), p. 411. See also Conwell-Evans, op. cit., p. 129.

for itself a technique similar to that of the League's Rapporteur.⁴

For instance, following the creation of the Interim Committee of the General Assembly in 1947,⁵ the General Assembly passed a resolution⁶ charging the Interim Committee to undertake, among other things, a study⁷ on how the League of Nations had used the Rapporteur technique.

⁴At the founding of the United Nations, general interest in the Rapporteur became manifest in the structural set up. See, United Nations: Document 67/G/20, May 5, 1945. "Organization, Function and Officerships," United Nations Conference on International Organization (Chart). See also, Year Book of the United Nations, 1946-47, pp. 113: "The Conference was divided into four Commissions and twelve technical Committees. All delegations were represented on the Commissions and Committees."

"Each Commission had a President and a Rapporteur, who were nominated by the Steering Committee and approved by the Conference."

"Each technical committee had a Chairman and a Rapporteur, who were nominated by the Steering Committee and approved by the Conference."

⁵This was a general committee of the General Assembly which was composed of all the states members of the Organization. It was created in 1947 to function continuously between the Assembly sessions. See, United Nations, General Assembly Resolution III (II): Establishment of the Interim Committee of the General Assembly (November 13th, 1947).

⁶United Nations, General Assembly Resolution 268 (III) B: Appointment of a Rapporteur or Conciliator for a Situation or Dispute Brought to the Attention of the Security Council (April 28th, 1948).

⁷The United Nations Secretariat conducted a series of research studies (there were exactly eight) on behalf of the Interim Committee. The latter body used these studies as a basis of its own reports and recommendations to the General Assembly. See, United Nations, General Assembly Official Records, Third Session, Supplementary No. 10 (A/578, A/583, A/605, A/606); Reports of the Interim Committee of the General Assembly (5 January - 5 August, 1948), pp. 31-32. The research study which specifically dealt with the Rapporteur of the League of Nations is: United Nations, Document A/AC. 18/68: Measures and Procedures of Pacific Settlement Employed by the League of Nations (Memorandum prepared by the Secretariat). This is a 42-page document outlining all the main methods employed by the League of Nations in the peaceful settlement of international disputes. The role of the Rapporteur is touched on only briefly in two pages (pp. 7-9). The substance of the latter will be dealt with at an appropriate place below.

While the completed studies were followed by some recommendations to the General Assembly, no further action was ever taken.⁸

One of the agreed principles under which the League of Nations was to operate was "the acceptance of obligations not to resort to war" except under certain very specific conditions.⁹ By 1939, twenty years later, not only had many violent clashes occurred between states, in clear violation of the provisions of the Covenant of the League of Nations, but once again the world was plunging into an even more horrible global confrontation. Similarly, at the founding of the United Nations in 1945, immediately following the end of the Second World War, representatives of the assembled states pledged that "in order to save succeeding generations from the scourge of war," they were resolved that "armed force shall not be used" (Preamble to the Charter of the United Nations). After twenty-eight years of the existence of the United Nations, it is not yet evident that interstate violence will ever be brought under control.

⁸The subsequent studies of the United Nations which culminated in the Report of the "Mexico Committee" in 1966, could be considered the answer to, or implementation of, the General Assembly Resolution of April 28, 1948. See, United Nations, General Assembly, Official Records of the Twenty-First Session, Agenda Item 87: Consideration of Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. See also, United Nations, Document (A/6230): Report of the 1966 Special Committee on Principles of International Law Concerning Friendly Relations and Cooperation among States."

⁹Preamble of the Covenant of the League of Nations. The specific conditions were that no state would be allowed to go to war until it had exhausted all other peaceful means, and after the lapse of three months (Art.13).

A plausible inference from the above paragraph is that pledges and pronouncements by world politicians have never been enough to prevent wars between states." What has always been lacking, among other things, are dependable mechanisms or procedures for settling international disputes peacefully. This study has been undertaken on the assumption that a continued search for more reliable information concerning methods and techniques for the settlement of disputes between states can be a significant contribution to a reduction in interstate hostilities.

The main thrust of the study will center around the activities of the Rapporteur with regard to the peaceful settlement of international disputes by the Council of the League of Nations. The treatment of the subject matter is essentially historical as reliance will be placed on descriptive analysis, although not a strictly chronological one. That is, freedom and flexibility is reserved in selecting those aspects of the Rapporteur system which may add to as clear a picture of the technique as possible.

(i) The Origins of the Rapporteur

It would be hard to deny that the founders of the League of Nations, especially the representatives of European countries, were aware of, and probably well acquainted with, the Rapporteur technique. Many of them were familiar with its usage in various continental political systems. To others, including those who knew least about the Rapporteur in France, there appeared to be some similarity between the proposed scheme and

the Cabinet systems of certain countries. If one were to think of the League Council as an international Cabinet, with the President of the Council as equivalent to a Prime Minister and the Regular Rapporteurs as the counterpart of Cabinet Ministers, the parallel would seem to be fitting. In fact, commentators such as Sir Alfred Zimmern and Francis P. Walters have observed that the League Council had features of the British Cabinet system. However, such views remain speculative as long as the original motivations and intentions of those who introduced the Rapporteur system in the League of Nations remain obscure.

By the end of World War I, the most developed and well-known Rapporteur system was that which thrived in the Third Republic of France. Although the institution had become a common feature of the governmental processes of several countries of continental Europe,¹⁰ it should be kept in mind that that was as a result of the spread of the French Revolution and the territorial conquests of Napoleon Bonaparte, which extended French political influence over much of Europe. The form and practice of the institution of Rapporteur, whether in modern France or in the other European countries, is only a manifestation of a phenomenon whose history goes back to the period immediately following the founding of the French monarchy itself—in the second half of the thirteenth century.

¹⁰ Félix Moreau et Joseph Delpech, Les Règlements des Assemblées Législatives, 2 vols. (Paris: N. Giard & E. Brière, 1907). The other countries are: Austria, Belgium, Germany, Greece, Hungary, Italy, the Netherlands, Norway and Switzerland.

Four developmental phases of the French Rapporteur are recognizable. First, there was the early monarchical beginnings in which those individuals, defined by one historian as "distinguished figures in the legal world . . . who sometimes acted as Rapporteurs,"¹¹ were generally called "maîtres des requêtes." These functionaries, who were appointed by the king, usually acted as neutral or impartial intermediaries in the administration of justice, and "were frequently entrusted with 'fact-finding' missions to the provinces, reporting back to the relevant section of the Conseil d'État."¹²

The monarchical phase of the Rapporteur merged into the judicial phase in which an even more elaborate development of the Rapporteur occurred. That was related to the creation of the "Parlement of Paris"—the French equivalent of the British High Court¹³—by Philip the Fair.

In order to render correct judgement, and therefore Justice, in the trial of cases by the "parlement," a more refined classification of the "maîtres des requêtes" became necessary: Those "who prepared written evidence for judgement, the Rapporteurs," and those who used that written evidence for arriving at some judgements.¹⁴ As Sherman further states:

¹¹F.C. Green, The Ancien Regime: A Manual of French Institutions and Classes (Edinburgh: Edinburgh University Press, 1958), p. 6.

¹²Ibid.

¹³J.H. Sherman, The Parlement of Paris (London: Eyre and Spottiswoode, 1968), p. 3.

¹⁴Ibid.

Usually, during the final part of the trial, after the Grand Chamber had pronounced on every aspect of the case, but the parties wanted further investigation, it fell to the Rapporteur to sift all the documentary material.¹⁵

The judicial Rapporteur was appointed by the President of the "Chambre of Enquêtes" (Councillors), and his duty was:

... to sift the documentary evidence, to assess in writing, which articles had been proved and which remained doubtful, and finally, in the light of this detailed writing to estimate what [the] correct verdict should be.¹⁶

Besides sifting documents, the judicial Rapporteur also participated in the final discussions of a trial which usually took place in private.

It was at such a session that "the Rapporteur took his colleagues through the case, article by article, giving them his opinion upon the value of the testimony offered by the witnesses, supporting his view with quotations from the various dispositions."¹⁷ As Sherman points out, "the opinions of the Rapporteur in most cases were particularly influential," if they did not "frequently determine," and were certainly almost always the basis of, "whatever verdict the judges reached... collectively."¹⁸

With the launching of the French Revolution in 1789, the beginnings of a new kind of Rapporteur were laid in France. This was the Committee Rapporteur of the French Parliamentary Committee System which received

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid., p. 65.

¹⁸ Ibid., p. 71.

its most concrete form in the Third Republic and which continued into the Fourth Republic.

According to R.K. Gooch,¹⁹ an authority on the French parliamentary system, the origins of the French Rapporteur in France "are to be sought in the National Assembly of 1789-1792."²⁰ In his view, "all the germs were there," including the elevation of committees to a position of permanent importance "in the French governmental system."²¹ The prominent role of Rapporteurs in the French National Assembly in 1789-1791 accounts almost exclusively for the conspicuous role of the Rapporteur which emerged in the parliamentary committee system of France during the Third and Fourth Republics. Although Gooch was referring specifically to the Committee of Finance which the National Assembly had established in 1789, his footnote that:

This Committee . . . quickly displayed the characteristics of its descendant of the Third and Fourth Republics—the tendency to usurp the prerogatives both of the executive and the legislature²²

could be applied as well to all the other committees.

From July 1789 to September 1791, a period following the collapse of the Ancien Regime in France, the French National Assembly embarked

¹⁹The next few paragraphs, dealing with the origins of the "political" Rapporteur in the 1789-1791 period of the history of France, will be based primarily on R.K. Gooch, Parliamentary Government in France, Revolutionary Origins 1789-1791 (New York: Russell & Russell, 1960).

²⁰Ibid., p. 241.

²¹Ibid.

²²Ibid.

upon an ambitious program of formulating and producing a democratic constitution for France. To do that, the National Assembly appointed a number of committees, the most important of which was the Committee of the Constitution. The work of those committees was reported to the National Assembly by very able Rapporteurs. For instance, one of the most famous Rapporteurs at the time was a Jean Joseph Mounier (1758-1806), a young Grenoble lawyer who is said to have gained "considerable prominence in his native province through successfully defying the king."²³ Mounier had been chosen by the Committee of Thirty, whose duty was the preliminary study of questions connected with the formation of the Constitution, to be its Rapporteur. Later, as a member of the Committee of Eight which was charged with the job of drafting a Constitution, he was again chosen by the latter Committee to be its Rapporteur on the item concerning the Declaration of the Rights of Man and of the Citizen.²⁴ These Rapporteurs were not only the spokesmen for the respective Committees, they were also recognized leaders and capable orators where and when "reporting" was more than just representing their committees. They interpreted and propounded their personal views with a commitment which went beyond the mere reporting of the

²³Ibid., p. 23.

²⁴Ibid., p. 62. Other prominent Rapporteurs, to name a few, included the following: Jean Nicholas Desmeuniers, Rapporteur for the Committee of the Constitution in charge of the subject on the "Organization of the Ministry"; Jacques Guillaume Thouret, Rapporteur of the Committee on the Constitution in charge of the "structure and functions of the legislature"; François Félix Hyacinthe Muguet, Rapporteur on behalf of seven committees on the flight of the king.

views of their committees.

The outcome of the debates in the 1789-91 French National Assembly concerning the future Constitution of France was not only the establishment of a parliamentary system of democratic government for France, but within that system, the institutionalization of the Committee Rapporteur. In the Third Republic the Rapporteur was a much more powerful figure than any of the other positions of the Committee, including the Chairman. The latter was considered to be only "the official channel of ordinary communication between the members and the other official bodies like the Assembly and Ministers."²⁵ On the other hand, the Rapporteur was "an onerous office, for the Rapporteur was [sic] responsible for guiding the wish of the Commission from the standpoint of policy,"²⁶ and it would appear that he took the lead in debates on a subject of which he was the Rapporteur. It is reported that Rapporteurs were even more powerful than the government ministers, and that it was not uncommon that "many a Rapporteur made his Minister's life miserable."²⁷

Men like Mirabeau had condemned the proposed Committee system which he referred to at one time as "those useless committees in which is nearly always compromised the dignity of the representatives of the

²⁵Herman Finer, Theory and Practice of Modern Government, revised edition (New York: Henry Holt and Company, 1949), p. 494.

²⁶Ibid., p. 495.

²⁷Ibid., p. 507.

nation."²⁸ Gooch comments that the argument by Mirabeau "seems at the present day a prophetic anticipation of the famous comités." He continues to say that:

[Mirabeau's] unfavourable reference to the relationship between legislative committees and ministers under a parliamentary system is most striking and significant in connection with the part played by Committees under the Third and Fourth Republics.²⁹

The Rapporteur in the Third Republic of France, like every other parliamentarian, was a deputy of the French Chamber of Deputies who had become the chief spokesman of the Committee to which he had been attached. That is to say, for each specific item or legislative measure that a parliamentary committee considered, a Rapporteur would be chosen. These Committees—called "Commissions" or "Commissions générales parlementaires" in French³⁰—were given a much more influential role or voice in legislation than, for instance, their British counterpart. In British parliamentary procedure, bills are introduced, "explained, defended and piloted by the Minister,"³¹ who continues to be responsible throughout all the stages of a bill. Bills are referred to Committees only after the second reading in the House of Commons. The

²⁸Gooch, op. cit., p. 113.

²⁹Ibid., p. 114.

³⁰Edward McChesney Sait, Government and Politics in France (New York: World Book Company, 1921), p. 211.

³¹J.A. Corry, and Henry J. Abraham, Elements of Democratic Government (New York: Oxford University Press, 1964), p. 509, and Sait, op. cit., p. 211.

Minister responsible for introducing the bill attends the Committee meetings and continues to be the spokesman. In the French system, however, the Minister responsible for introducing the bill could only initiate the legislative process by reading the bill at the first sitting of the Chamber of Deputies on the bill, after which the bill was referred to the appropriate committee for detailed scrutiny. The latter met "in secret without the guidance of a Minister."³² From there on the French Assembly would not discuss the bill until the Committee had completed its own study. When the Committee eventually completed its examination, it would submit a carefully written report to the Chamber. Herman Finer had in mind the Committee practice of the Third and Fourth Republics of France when he stated that:

... the Commission predominates, the House cannot discuss before the reports, it selects and amends amendments, it watches the whole of the debate, guides it, intervenes as a specially authorized body, and can take a bill away from the House and reconsider it when amendments are being offered and after the House has done with it.³³

The central figure in that French Committee system was the Rapporteur. Apparently, it was a position of great influence in French politics, and incumbents usually used that position as a stepping stone to higher office. The man usually cited as having used his successful career as Rapporteur for climbing to higher political office was Aristide Briand, who had the distinction of being Premier of France eleven times.³⁴

³²Sait, op. cit., p. 211.

³³Finer, op. cit., p. 487.

³⁴Ibid., p. 507.

Thus, the Rapporteur in the Third Republic of France played a double role: as an important element in the parliamentary committee system, as well as a self-serving device for the holders of the position. By and large, the results of the procedure were considered unsatisfactory because the method did not encourage team play, but rather divided the leadership.³⁵ There is also evidence that Rapporteurs sometimes tended to be irresponsible. For instance, some Rapporteurs would advocate increase in expenditures on projects not found necessary by the Minister, or arbitrarily decide that there were too many judges which would lead to their reduction.³⁶

(ii) A Comparison of the Function of the French Rapporteur and the League of Nations Rapporteur

The preceding account suggested that the Rapporteur in France performed three kinds of functions, depending upon the period of its development. In the earliest period, the Rapporteur was strictly a civil servant. He was an appointee of the central authority, the king, and was solely responsible to him. Whatever mediatory role he played in the kingdom, it was primarily for the settlement of disputes between "outside" parties, for instance, between two disputing feudal lords

³⁵William Bennett Munro and Morley Ayearst, The Governments of Europe, 4th Edition (New York: The Macmillan Company, 1954), pp. 426-431.

³⁶John Edward Courtenay, France, New and Revised Edition (London: Macmillan and Co. Ltd., 1902), p. 445;

within the kingdom—although that was one of the functions—but to settle any misunderstandings between the latter and the central authority. The Rapporteur was an important element in the preservation of the French Kingdom—i.e., the unity of the kingdom. His role had the authority and power of the king behind him.

As we enter into the study of the Rapporteur in the League of Nations, it may be noted here that in so far as the mediatory role of the Rapporteur is concerned, the Rapporteur in the League of Nations tended primarily to be concerned with the bringing about of a peaceful settlement between the parties to a dispute and not between the latter and the League. Although the Rapporteur was appointed by an organ of the League of Nations, he was also a representative of his government. Although his latter connections were not supposed to have any bearing in his role as Rapporteur, the influence from his government could not be completely ruled out under all circumstances.

From about the 16th century to the eve of the French Revolution, the role of the French Rapporteur shifted from that of being advisor to the central authority and mediator, to that of impartial judicial reporter. The function of Rapporteur became a specialised activity for which the incumbent was expected to be well read and knowledgeable in the legal profession. The Rapporteur was basically a researcher and analyser of cases whose findings would be used as bases for informed judgement by court judges. The latter had not only to be presented with the Rapporteur's written report, but occasionally relied upon the Rapporteur's

oral guidance through the intricacies of the cases.

The present study will demonstrate that the Rapporteur's Report to the League Council became an important element of Rapporteurship. The decisions and resolutions of the League Council, wherein Rapporteurs were involved, relied heavily on those reports and the oral representations of the Rapporteur. Beyond that, however, it does not appear that the Rapporteur in the League was involved in judicial matters and, in any case, the most important aspect of Rapporteurship was that related to international disputes of a political nature. Moreover, in the League of Nations, the Rapporteur did not have to be a legal expert as was the case in France. All that was necessary was that an individual be a representative of his government in the League Council, and that he command the respect and confidence of his colleagues in the Council for his skills in mediation.

As noted earlier,³⁷ by the time of the Third Republic in France, the Rapporteur had developed into a position of formidable influence in French politics. Generally, the effect of that role was divisive and partisan in the sense that, instead of acting as mediator, the Rapporteur assumed an unmistakable position of opposition to the government, while at the same time criticising the government under the cloak of non-partisanship. In this study, it will be shown that the Rapporteur in the League of Nations functioned clearly as a "third party" as an effort was made always to select as Rapporteur a representative whose government was considered neutral with regard to the dispute.

³⁷See p. 14.

CHAPTER II

RAPPORTEURSHIP AND THE LEAGUE OF NATIONS

(i) Origins of the League's Rapporteur System

The origins of the Rapporteur technique in the League of Nations may be traced back to experiences immediately before and during World War I,¹ and to the discussions of the Paris Peace Conference immediately before the creation of the League of Nations.² Unfortunately, no record of any specific discussions on the possible introduction of the Rapporteur in the League seems to have been kept. Even close observers and commentators of the Peace Conference such as David Hunter Miller and H.W.V. Temperley have hardly made any references to the Rapporteur.³

Nowhere in the Covenant of the League of Nations does the term "Rapporteur" appear. That, in itself, need not be interpreted as evidence that the Rapporteur was considered unimportant. The framers of the Covenant appear to have deliberately left it to the Council and

¹Sir Alfred Zimmern, The League of Nations and the Rule of Law (London: The Macmillan and Co. Limited, 1939), pp. 139 ff.

²In particular discussions related to the presentation of the Anglo-American drafts of the Covenant. See Charles Seymour, The Intimate Papers of Colonel House (New York: Houghton Mifflin Company, 1928), pp. 279-320.

³David Hunter Miller, The Drafting of the Covenant, 2 vols. (New York: G.P. Putnam & Sons, 1928); H.W.V. Temperley (ed.), A History of the Peace Conference of Paris, 6 vols. (London: Hodder and Stoughton, 1920); and James T. Shotwell, At the Paris Peace Conference (New York: The Macmillan Company, 1937).

the Assembly to formulate and regulate their own procedures and techniques as best as they saw fit, as long as those processes did not conflict with the Covenant. This seems to have been quite in order and within the meaning of Article 5, paragraph 2, of the Covenant:

All matters of procedure at meetings of the Assembly or of the Council, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the members of the League represented at the meeting.

In the Assembly and the Council, the instruments for regulation were "Rules of Procedure of the Assembly of the League of Nations" and the "Rules of Procedure of the Council of the League of Nations," respectively. It was in those two instruments that the Rapporteur (or "reporter," as it is called in the English version of the "Rules of Procedure of the Council of the League of Nations") was mentioned specifically.

The origins of the "Rules of Procedure of the Council of the League of Nations"⁴ was the "Draft Order of Procedure for the Council" drawn up by the Secretary-General of the League of Nations, Sir Eric Drummond.⁵

The latter document was first presented for general discussion and amendment at the third meeting of the Second Session of the League Council which was held in London on February 12, 1920.⁶ From that meeting

⁴League of Nations, Document C. 393, M. 200. 1933. V (1933.v.4): Rules of Procedure of the Council of the League of Nations (26th May, 1933).

⁵League of Nations, Council Document No. 4 (27/864/193): Draft Order of Procedure for the Council of the League of Nations.

⁶Third meeting of the Second Session of the Council of the League of Nations which was held on February 12th, 1920. See League of Nations, Minutes of the Council, (1 - 8), 1920, Annex 4.

until May 17th, 1920⁷ when the "Rules of Procedure of the Council of the League of Nations" was officially adopted by the Council,⁸ details of the document were discussed and worked out. That aspect of the "Rules" of the Council which involved the Rapporteur seem to have been worked out in private or in secret meetings of the Council.⁹ The latter may be verified by comparing the official record with Francis P. Walter's comment that the system of Rapporteurs "was formally proposed by Arthur Balfour at the second meeting of the Council and accepted without comment."¹⁰ No record of that "second" meeting mentioned seems to have been kept, although records of the First and Third Meetings are available. The Council was not, of course, obliged to keep or publish minutes of secret or private meetings. If, in fact, Léon Bourgeois, in his capacity as President of the First Session of the League Council in Paris could, without any preliminary comments or any seeming surprise or comment from the Council members go on to "read the list of the Agenda," and suggested that questions should be distributed among the various Rapporteurs,¹¹ it may be inferred that

⁷Sixth meeting of the Fifth Session of the Council of the League of Nations which was held in Rome on May 17th, 1920. See League of Nations, Minutes of the Council, (1 - 8), 1920.

⁸Ibid., Annex 54. Also, League of Nations, Document (20/31/39A): Rules of Procedure of the Council of the League of Nations (May 17th, 1920).

⁹This is a plausible interpretation in the absence of published records of how the rules were arrived at. Francis Paul Walters, A History of the League of Nations (London: Oxford University Press, 1952), p. 87.

¹⁰Ibid.

¹¹League of Nations, Minutes of the Council (1 - 8) 1920. First meeting of the First Session of the Council of the League of Nations which was held in Paris on January 16th, 1920.

some agreement or understanding had been reached before. This conclusion seems unavoidable if it is realized that as of January 16th, 1920 no formal discussions on the "Draft Order of Procedure of the Council" had yet taken place.

Even the position in which the Rapporteur or "reporter" appears in the "Rules of Procedure of the Council of the League of Nations" would seem to leave one with little doubt that the Rapporteur procedure had been decided upon outside or prior to the official council meetings. In the "Rules of Procedure of the Council of the League of Nations," which were adopted in Rome on May 17th, 1920, only two Articles refer explicitly to the Rapporteur. Article 2, paragraph 1 of that document reads:

The Council will decide on the items which it desires to see placed on the Agenda of the next meeting, and may appoint a reporter for each subject.

It is clear that the Rapporteur being referred to here was the "regular" type (see Section (iii) below). As long as the question for which such a Rapporteur had been appointed originally remained on the Agenda of subsequent Council sessions, the same Rapporteur was retained to continue on the same item, provided also that the same member was retained by his government as its representative in the League Council. As the paragraph states explicitly, those Rapporteurs were appointed by the League Council. However, if circumstances arose in which the Council did not, or could not, appoint a Rapporteur for a question appearing on the Agenda, he would be appointed by the President

of the Council. That was provided for in Article 2, paragraph 3, of the May 17th, 1920 "Rules of Procedure of the Council of the League of Nations":

In all cases where the Council has not appointed a reporter for any subject on the agenda, he may be appointed by the President.¹²

It should be noted that this applies to any subject which may have been referred to the Council in the interval between the two sessions" (Article 2, paragraph 3 of the May 17th, 1920 "Rules" of the Council). For each extraordinary question which would require special meetings of the League Council, "Special Rapporteurs" were appointed (see Section (4) below).

Rapporteurs are mentioned again in Article 5 of the May 17th, 1920 "Rules" of the Council, but only with regard to the manner of presentation of their reports. An important point to be recognized about the "Rules of Procedure of the Council of the League of Nations" of May 17th, 1920 is the use of the word "may" in paragraph 1 and paragraph 2 of Article 2: "The Council . . . may appoint a reporter," and the reporter "may be appointed by the president," respectively. It was not required that the League Council, or the President of the League Council should appoint Rapporteurs, which may have reflected the experimental nature of the new technique at that early state of the League of Nations' existence. At that point, it could not have been foreseen to what extent the Council would grow to rely on the Rapporteur.

¹²A Rapporteur appointed by the Rules of the Council was always a "regular" Rapporteur and a "special" Rapporteur. See Sections (iii) and (iv) below.

A dozen years later, the position had changed a great deal. That was reflected in the amended "Rules of Procedure of the Council, adopted by the Council on May 26th, 1933."¹³ In this latter instrument, not only had the "reporter" of the May 17th, 1920 "Rules" been replaced by the term "Rapporteur,"¹⁴ but an element of compulsion also seemed to have crept in, perhaps demonstrating the confidence and trust the League of Nations had come to place in the Rapporteur. It was now demanded that the Agenda of the Council Sessions

... shall ... show the rapporteurs for the various questions (Article 3, paragraph 1);

that the League Council

... shall draw up a list of rapporteurs for the various matters with which it is habitually called upon to deal (Article 3, paragraph 4);

and that

Where rapporteurs have not been appointed by the Council, they shall be appointed by the President. (Article 3, paragraph 5.)

The progression is clear. Beginning with the "Draft Order of Procedure for the Council of the League of Nations"¹⁵ of February, 1920 in which no reference to the Rapporteur was made,¹⁶ through the May 17th, 1920 "Rules of Procedure of the Council of the League of

¹³League of Nations, Document C.93.1933.V. See also League of Nations, Official Journal, 14th Year, July 1933; Annex 1445, p. 900.

¹⁴"Reporter" is not an accurate translation of "Rapporteur." "Official spokesman and report-maker" is probably more accurate.

¹⁵League of Nations, Council Document No. 4 (27/862/193). Also, League of Nations, Official Journal 1st Year, February 1920, Annex 4.

¹⁶The closest reference would probably be Article 7 of the Draft Order of Procedure for the Council of the League of Nations which reads:

All matters of procedure, including the appointment of committees and members constituting those committees to investigate particular matters, may be decided by a majority of members present.

Nations" in which use of the Rapporteur while suggested, was not seen as necessary to the May 26th, 1933 document in which there was injected a demand for the use of the Rapporteur, a picture seems to unfold whereby, through practice, the Rapporteur had become a normal procedure of carrying out a certain portion of the League of Nations' business.

It would be incorrect, however, to leave the impression that it was only the League Council that made use of the Rapporteur. The League Assembly also made extensive use of Rapporteurs who, as the next section of this Chapter will attempt to show, functioned differently from those of the Council. Not only was the League Assembly, which met for the first time in November 1920, fortunate to have as an example and model the May 17th, 1920 "Rules" of the Council, and much information contained in the discussions that led up to the "Rules," but the Assembly had had several months before the First Assembly during which there was an opportunity to observe the Council Rapporteur technique being put into practical use. That was in three disputes: The Eupen and Malmedy dispute between Germany and Belgium; the Aaland Islands Question between Finland and Sweden; and the Vilna Dispute between Lithuania and Poland. It was, therefore, not difficult for the Assembly of the League to adopt the Rapporteur system except, as will be made clear below, that the technique had to be modified in terms of the functions of the League Assembly, and with due consideration for the need to avoid any overlap or duplication of activities between the League Assembly and the League Council. Thus, in the "Rules of Procedure of the Assembly of the League of Nations,"¹⁷ it was only

¹⁷League of Nations, Document C.220.92.1931.V. See also, Felix Morley, The Society of Nations (Washington: The Brookings Institution, 1932), pp. 507 and 509.

provided that:

Each Committee shall appoint its Chairman and Rapporteurs (Article 14, paragraph 4);

and that:

Each Committee may appoint subcommittees, which shall elect their own officers (Article 14, paragraph 5).

The above provisions restricted the Rapporteur to the Assembly Committees only. Any other mention of the Rapporteur in the Assembly "Rules" involved peripheral references such as the injunction that:

The Chairman and the Rapporteur of the Committee may be accorded precedence for the purpose of defending or explaining the conclusions arrived at by their Committee (Rule 15, paragraph 2);

or, the provision that "a deputy or technical advisor" may be appointed for service on a committee, but such an appointee "shall not be eligible for appointment as Chairman or Rapporteur" (Rule 6, paragraph 6).

(ii) The Committee Rapporteur

The Assembly of the League of Nations did not appoint Rapporteurs as such, they were appointed by the Committees created by the League assembly of which there were always six,¹⁸ and by subcommittees created by the Assembly Committees. Thus, it would perhaps be more accurate to

¹⁸The first six Assembly Committees were:

1. First Committee (Legal and Constitutional Questions),
2. Second Committee (Technical Organizations),
3. Third Committee (Economic Questions),
4. Fourth Committee (Financial Questions),
5. Fifth Committee (Humanitarian and General Questions),
6. Sixth Committee (Political Questions).

refer to them as "Committee Rapporteurs"¹⁹ rather than "Assembly Rapporteurs." The Committee Rapporteur was a member of the state delegation to the League Assembly (or a substitute) who had been appointed by a committee or sub-committee whenever it was necessary to give a report of the Committee's activities to the plenary Assembly (in the case of an Assembly Committee) or to the Assembly Committee (in the case of a sub-committee). In fact, as all the six Assembly Committees always had to report to a plenary meeting of the Assembly, it can be stated quite accurately that the reporting in every case was done by a Rapporteur.

Generally there was a Rapporteur for each specific topic, so that if a Committee was charged by the Assembly to consider, for example, three specific subjects, the likelihood was that the Committee would appoint a Rapporteur for each of the subjects. An example is provided by the work of the Sixth Committee (Political Questions) of the Fifteenth Assembly of 1934. Altogether, that Committee dealt with eight political questions for which the Committee submitted reports to the plenary meetings of the Assembly.

¹⁹ Margaret E. Burton, The Assembly of the League of Nations (Chicago: The University of Chicago Press, 1941), pp. 162-66. Not only does she refer to "The Committee Rapporteur," but this is the longest (5 pages) and the best description of the "Committee Rapporteur" which this writer has seen so far.

Sixth Committee Rapporteurs (1934)²⁰

<u>Rapporteur</u>	<u>Subject</u>
M. R. Raphael (Greece)	Russian, Armenian, Assyrian, Assyro-Chaldean and Turkish Refugees.
A. Noel Skelton (United Kingdom)	Slavery.
Erik de Scavenius (Denmark)	Mandates.
Tevfik Rustu Bey (Turkey)	Admission of the Kingdom of Afghanistan into the League of Nations.
Joseph Bech (Luxembourg)	Protection of Minorities.
Salvador de Madariaga ²¹ (Spain)	Supply of Arms and War Material to Belligerents.
Antonio Maraini (Italy)	Intellectual Cooperation.
Salvador de Madariaga (Spain)	Dispute between Bolivia and Paraguay: Appeal of the Bolivian Government under Article 15 of the Covenant.

When, therefore, the Sixth Committee of 1934 submitted its reports to the Assembly, it presented the reports separately through the respective Rapporteurs as indicated.

The Assembly Committees followed no standard procedures for the appointment of their Rapporteurs. However, the most common practice was that in which Rapporteurs were appointed during the first sitting of the committee. A typical example was that followed by the Fifth Committee (Humanitarian and General Questions) of 1934. The agreed Agenda at the first meeting of that Committee which was held on September 11th, 1934, showed five questions:²²

²⁰League of Nations, Official Journal, Special Supplement No. 130, Minutes of the Sixth Committee, 1934.

²¹de Madariaga was also Chairman of the Sixth Committee.

²²League of Nations, Official Journal, Special Supplement No. 129, Minutes of the Fifth Committee, 1934, p. 9.

<u>Question</u>	<u>Rapporteur</u>
Child Welfare	Mme. Malaterre-Seller (France)
Traffic in Women and Children	Miss F. Horsbrugh (U. K.)
Penal and Penitentiary Questions	Mr. John J. Hearne (Irish Free State)
Assistance to Indigent Foreigners	Mme. Hanna Hubicka (Poland)
Traffic in Opium and Other Dangerous Drugs	M. Julio Casares (Spain)

When Rapporteurs were appointed at the first meeting of the committee, or on the first day when a special item was introduced, it was usually understood that the Rapporteurs were appointed on a provisional basis.²³ That is, a distinction was made, or could be made, between the Rapporteur who investigated and prepared a report for the committee, and a report upon which the committee would prepare its final report to the Assembly. This point was clearly made by the Chairman of the 1928 Second Committee (Technical Organization). During the first meeting of that Committee which was held on September 4th, 1928, Mr. Motta (Swiss Representative) was in the Chair. The minutes of that meeting reported that:

The Chairman read the list of questions placed before the Second Committee.

He proposed that, in examining these questions, the Committee should adhere to the method adopted in previous years. This method, which had given good results, was to appoint for each question a provisional Rapporteur, who would conduct a purely objective preliminary enquiry and submit the results to the plenary Committee. The preliminary report would then be discussed,

²³League of Nations, Official Journal, Special Supplement No. 66, Minutes of the Fifth Committee, 1928, p. 9.

and subsequently the Rapporteur to the Assembly would be appointed.²⁴

That was the theory. In practice, the same Rapporteur (that is, the Provisional Rapporteur) was eventually the one appointed to be the Rapporteur to deliver the Report to the Assembly. This technique was adopted because the Provisional Rapporteur was inevitably the best informed on the particular item, and therefore the best qualified to speak on the question. For, the Rapporteurs to the Assembly not only presented the reports, which would have restricted them to the mechanical reading of the report, but they were also called upon occasionally, together with the Chairman, to explain certain points in the Report.

The "Rules of Procedure of the Assembly of the League of Nations" is silent about the time of appointment of Rapporteurs by the Committees. Rule 14, paragraph 4, merely says that each of the committees "shall appoint its Chairman and Rapporteurs" without indicating whether that would be done at the beginning or at the end of the committee deliberations. In the course of time, however, it would appear that representatives of member states came to believe that it made some difference whether a Rapporteur was chosen at the beginning or at the end of the committee meetings. For instance, it was believed that the time of appointment of a Rapporteur would probably affect the nature of the report, especially its degree of objectivity and impartiality.²⁵ As Burton pointed

²⁴League of Nations, Official Journal, Special Supplement No. 66, Minutes of the Second Committee, 1928, p. 9.

²⁵Burton, op. cit., pp. 163-165. She cites examples of committee discussions in which no clear cut conclusions emerged supporting this view.

out, irrespective of when the Rapporteur was appointed, much significance was attached to his report, especially if it was based on divergent views in the committee. From the point of view of the Rapporteur, the best and simplest reports to draft were those based on unanimous decisions in the committee. If the report was the result of a majority vote in the committee, it was often incumbent upon the Rapporteur to prepare and present a report that would be reflective of the majority opinion, but also indicative of the views of the minority.

Certainly, committee reports were not as mechanical an activity as might be supposed from a superficial acquaintance. In fact, even a casual look at the work of committee Rapporteurs seems to suggest that the work was shared with the Secretariat. While the latter handled the bulk of the data and factual information,²⁶ the work during committee meetings was done by the Rapporteurs themselves. The committee Rapporteur prepared the draft report, draft resolutions, and eventually presented the report to the Assembly on behalf of the committee.

It should be noted, however, that the Committee Rapporteur's work or activities were restricted to the immediate task of the committee and within the duration of the particular session of the Assembly. When the Assembly met for its regular annual session, procedure and practice almost invariably required that the plenary meeting resolve itself into the six committees to which it would assign a number of items of the adopted Agenda. The committees in turn would remain in existence

²⁶Committees and their subcommittees, and Rapporteurs could engage the services of experts.

throughout that Assembly session, which was roughly about a month. That time was too short to allow consideration of all items by the full Assembly. The main function of the Committees was to consider the questions assigned to them in more detail. Those questions which had been passed by the committees by a unanimous vote were usually adopted by the Assembly without question or discussion.

The Committee Rapporteur dealt with the same variety of questions, which came before the six Assembly Committees: non-political questions, including constitutional and legal matters; questions on technical organizations; economic questions; financial questions; humanitarian and other general questions; and political questions. Thus, a variety of skills and expertise were required on the part of Rapporteurs, and the kind of issues and the known skills of the Rapporteurs were the main determining factors in the selection of the appropriate Rapporteurs. Some consideration was made, however, for shared participation by all members.

(iii) The Regular Rapporteur

The Rapporteur system which was practised by the Council of the League of Nations—the organ where it was first introduced—was different from that practised in the Assembly Committees or other subsidiary organs of the League of Nations, such as special commissions of enquiry and the like. The one obvious difference was that the Regular Rapporteur was not part of a Committee as was the case with the Assembly's Committee Rapporteur.

A Regular Rapporteur²⁷ in the League of Nations was an official delegate of a state member of the League Council who had been chosen by the League Council to take charge of a routine or non-political question which the Council of the League of Nations was considering. "Taking charge" of a question meant assuming the responsibility for studying the particular question in depth and, generally, being responsible for the general conduct, progress and settlement of the question on behalf of the Council of the League of Nations. Regular Rapporteurs were, ~~or~~ were expected to be, and became, relatively well-informed on the particular question they were asked to handle, because the Council tended to retain the same representative for the same question from session to session until the question had been solved. Thus, as long as he remained the representative of his country in the Council, the Italian representative was usually expected to take charge of legal and

²⁷References to the "Regular Rapporteur"—sometimes called the "Permanent Rapporteur"—are numerous. The following are probably the most important: Denys Peter Myers, Handbook of the League of Nations (New York: World Peace Foundation, 1935), pp. 41-42; Arthur Sweetser, The League of Nations at Work (New York: Macmillan Company, 1920), p. 47; T.P. Conwell-Evans, The League Council in Action (London: Oxford University Press, 1929), pp. 128-129; Cromwell A. Riches, The Unanimity Rule and the League of Nations (Baltimore: The Johns Hopkins Press, 1933), p. 190; Zimmern, op. cit., pp. 452-454; Walters, op. cit., p. 87; Ten Years of World Co-operation (Geneva: Secretariat of the League of Nations, 1931), p. 14. The Secretariat of the League of Nations specifically referred to Regular Rapporteurs as "Permanent Rapporteurs." In an annual publication of the Information Section entitled "The Council of the League of Nations" of 1938, it was stated: "Permanent Rapporteurs are appointed each year by the Council for certain categories of questions with which the Council is habitually called upon to deal," p. 67.

constitutional questions, as was the French representative who was almost always asked to be in charge of questions on intellectual co-operation.

"Routine" or "non-political" questions referred to a general category of items in the classification of all questions submitted to, and considered by the League Council, which excluded political questions (see next section). That is, the Regular Rapporteur dealt with the same category of questions as those dealt with by the Committee Rapporteur of the Assembly Committees except that the forum was now the League Council. The Regular Rapporteur also dealt with questions which were connected with the Treaty responsibilities of the League of Nations: the Minorities Questions; Eupen and Malmedy dispute; questions involving the Memel Territory; the Saar Territory, the Free City of Danzig and Upper Silesia. This classification did not imply that these questions, could never become "political." The "non-political" designation should be understood as a reference to the manner in which the particular questions originated, or whose attempted solutions were not expected to evoke serious differences among states. For instance, with regard to questions that would arise relating to the Treaty obligations of the League of Nations, the expectation was that if any disputes arose concerning them, the probability would be that such disagreements would be legal: that is, they would involve some interpretation of the particular Treaty provisions.

Towards the end of the last annual session of the Council of the League of Nations of each year, that is, the session which was held concurrently with the annual session of the Assembly, a list of habitual questions was prepared and each was assigned a Rapporteur. As Arthur Sweetser said of the procedure:

... the subjects are then divided up among the various Council members, each member then makes a study of his special subject aided by the permanent official who has prepared it; an informal business meeting is then held, with each member reporting fully the subject entrusted to him.²⁸

What perhaps needs to be emphasized is that each of those Regular Rapporteurs was responsible for his subject, for the whole period beginning with the termination of the final annual session until the following session when the next batch of Rapporteurs were appointed. This was in practice a year later. In any case, if by the following year's final session a particular question had not been settled, and provided the representative who had been originally appointed for the case remained a Council member, the practice was to let the same individual continue as Rapporteur for the question. That is, unless the solution happened to have been effected earlier.²⁹

As the Regular Rapporteur was also helped by a member of the League Secretariat, it would appear that there was not much difference between a Regular Rapporteur and the Committee Rapporteur. However, unlike the Committee Rapporteur, the Regular Rapporteur was not a

²⁸Sweetser, op. cit., p. 47.

²⁹Ten Years of World Co-operation, op. cit., p. 14.

member of any committee, which implied that the latter was probably more influential in the League of Nations in the sense that the impact of his reports and recommendations were more direct and immediate. After all, the Regular Rapporteur was appointed by, and responsible to, a major organ of the League (the Council) while a Committee Rapporteur was not.³⁰ The Regular Rapporteur, because he was appointed by the Council, was responsible only to it, while the Committee Rapporteur was responsible strictly to the Assembly Committee of which he was a member, not the Assembly. It did sometimes occur, however, that the League Council decided to set up an ad hoc Committee "to assist the Rapporteur." Such committees were completely different from the ones encountered in the previous section, and in any case, such committees were usually set up at the suggestion of the Regular Rapporteurs themselves.³¹ There were also circumstances in which the League Council set up Council Committees for the purpose of conducting business "for which there is no regular Rapporteur."³² Thus, as Zimmern pointed out in drawing attention to the difference between the Regular Rapporteur and the "servant of a Committee," the report of the Regular Rapporteur "carries with it a considerably larger measure of authority than that of the servant of a Committee,"³³ implying perhaps that while

³⁰Riches, op. cit., p. 190.

³¹Question of the Hungarian Optants and the Question of Upper Silesia.

³²Myers, op. cit., p. 42.

³³Zimmern, op. cit., p. 464.

one was a servant of a group, the other was not. Again, that difference could perhaps be more sharply drawn by pointing out that a Rapporteur's report turned down by the Assembly would have involved rejecting the recommendations of the Assembly Committee of which the Rapporteur was merely the spokesman, while a Rapporteur's report turned down by the Council of the League would have been a rejection of the individual Regular Rapporteur's recommendations.

The Regular Rapporteur usually worked alone, although on many occasions he was helped by the Secretariat. He personally took charge of the enquiry on the question under his jurisdiction, prepared a report on it and subsequently presented the report to the full Council with his own conclusions, draft resolutions and recommendations. Also, in the Council discussions on the question, he usually led and guided the discussions.³⁴ That was true whether the question was involving the internal organization of the League of Nations, or one that concerned the post-World War I Treaty obligations of the League of Nations.

It must be stressed, however, that the Regular Rapporteur's time was mainly devoted to preparing the report which was later to be presented to the League Council. The Regular Rapporteur hardly ever conducted any enquiry personally, nor were the reports themselves ever followed by full scale discussions in the Council. In most cases, the latter only endorsed and then adopted the reports and recommendations of the Regular Rapporteur. That is evident, for instance, in the

³⁴Conwell-Evans, op. cit., p. 132.

case of the eight Regular Rapporteurs appointed at the very beginning of the existence of the League Council.

League Council's First Regular Rapporteurs³⁵

<u>Question</u>	<u>Rapporteur</u>
1. Swiss entry into the League	A.J. Balfour (British Empire)
2. Order of Procedure of the Council	Maggiorino Ferraris (Italy)
3. Saar Basin	D. Caclamanos (Greece)
4. Free City of Danzig	Paul Hymans (Belgium)
5. Permanent Court of International Justice	Léon Bourgeois (France)
6. Transit, Ports, Waterways and Railways	Quinones de Leon (Spain)
7. Health	Gastao Da Cunha (Brazil)
8. Polish Minority	M.K. Matsui (Japan)

Seven of the reports (except that of Signor Maggiorino Ferraris, the Italian representative) were presented and adopted by the League Council during the Second and Third Meetings of the Second Session of the Council. These two meetings were held on the same day, February 13th, 1920. Obviously, had there been any discussions in the Council, much more time would have been required. The seven Rapporteurs had been given about a month (from January 16th to February 13th, 1920) to prepare their reports.

³⁵First meeting of the Second Session of the Council of the League of Nations which was held in London on Wednesday, 11th February, 1920. See League of Nations, Minutes of the Council (1 - 8), 1920, pp. 3-4.

The Rapporteur procedure, in this case the Regular Rapporteur, was a convenient method for speeding up the work of the Council.³⁶ This was made possible because the Secretariat of the League of Nations was always at the disposal of the Regular Rapporteur. The latter could consult the members of the Secretariat as well as other members of the League Council before presenting the report to a public meeting of the Council. Besides, the practice of holding Council meetings first in private where drafts of the reports could be considered, went a long way towards making the reports acceptable in the public meetings, thereby making it possible to eliminate public debates and long discussions. That was one of the main differences between a Regular Rapporteur and a Special Rapporteur.³⁷

One other important feature of the Regular Rapporteur was the fact that he normally was not expected to handle political disputes, nor to deal directly with the disputing states. Mediation, negotiation or conciliation were not part of his function. This did not mean that League members could not hold conflicting views on a question being handled by a Regular Rapporteur. For example, there were probably as many views on how the Permanent Court of International Justice should be organized as there were Council members. Léon Bourgeois, the Rapporteur, might have been (and probably was) aware of those differences. However, instead of trying to negotiate or mediate between the states, his duty

³⁶ Pitman B. Potter, An Introduction to the Study of International Organization (New York: The Century Company, 1927), p. 410.

³⁷ See pp. 40-41 below.

was to use his independent judgement utilizing all sources and resources at his disposal, and then to make recommendations. With regard to the organization of the International Court of Justice, he first of all suggested that a fully representative committee would need to be appointed to work on the problem, on the basis of whose findings and suggestions he would make his recommendations, and from which the League Council would, in turn, base its decisions. The idea seems to have been that for subjects of a general nature and of a general interest to the League of Nations, a Regular Rapporteur had to be appointed. In the case of a particular dispute in which the role of the League Council would have been to help the disputing states to reach some settlement, a different type of Rapporteur was required.

One special criterion which the League Council relied upon in appointing Regular Rapporteurs, and which greatly facilitated the Rapporteur's work, was the practice of selecting representatives whose governments were known not to have strong views or special interest in the subject. Thus, on the question of the Polish Minority Treaty, the Japanese representative, M. K. Matsui, was appointed and the Greek representative, D. Caclamonos, was appointed for the Saar Basin question. The practice of appointing "neutral" Rapporteurs was supposed to inject impartiality into the whole process as well as into the Council's decisions on specific cases. Although the intention was a noble one, it is not clear how the League Council ascertained whether or not a state was neutral on a certain issue except on the basis of what the particular

state had already said. In the case of the Polish Minority Treaty, it might have been argued that no particular interest of Japan, a Far-Eastern power, could possibly have been affected by a treaty involving the rights of some European peoples.

Many of the questions brought to the attention of the League of Nations were of a non-political nature, and the activities of the Regular Rapporteur seemed to have been directed towards dealing with them on that level. But there seemed nothing in the nature of the questions themselves which could have kept them indefinitely non-political. In questions such as those which arose out of the Peace Treaties, the function of the Rapporteur seemed to be to ascertain the legal interpretation of the clauses of the Treaties, rather than to attempt to find some common ground between disputing states. Thus, the Regular Rapporteur attempted general solutions to these questions, as illustrated in the chart (p. 36), and not compromises aimed at satisfying any particular parties.

(iv) The Special Rapporteur

The third and perhaps the most important aspect of the Rapporteur system of the League of Nations was that of the Special Rapporteur.³⁸ The primary focus of this study is the role that the Special Rapporteur played in the settlement of international disputes. In the fulfilment of that function of the League of Nations, the Special Rapporteur was the main actor, although admittedly, he acted on behalf of the League Council.

³⁸Ten Years of World Co-operation, op. cit., p. 14. Also, The Council of the League of Nations (Geneva: Information Section, 1938): "There are two kinds of Rapporteurs—Permanent and Special Rapporteurs," p. 67.

This section of this Chapter will be confined to a general commentary on the distinctive features of the Special Rapporteur, leaving aside for more detailed examination in later chapters, his activities connected with the settlement of international disputes.

"Special Rapporteur" referred to a Council member of the League of Nations who had been appointed to intervene in an international dispute on behalf of the Council of the League of Nations. That kind of Rapporteur was "special" in the sense that he was appointed by the League Council under special and unique circumstances: when a political dispute had been brought formally (i. e., through the recognized provisions of the Covenant of the League of Nations) to the attention of the League Council.³⁹ This is not to suggest that all political disputes automatically had a Special Rapporteur appointed for their settlement, although that was usually expected.⁴⁰ It was open to the League Council to use any of several techniques to settle international disputes, of which the Special Rapporteur was one. In fact, the Council of the League of Nations grew to rely more and more on the Special Rapporteur in its efforts to settle

³⁹Information Section, 1938, op. cit., p. 67: "Special Rapporteurs: are appointed by the Council when it deems this to be expedient for the study of matters which may be brought before it and for which there is no Permanent Rapporteur."

⁴⁰For many international disputes which were submitted to the League Council no Rapporteurs were appointed for their settlement. The reasons for that are not clear, but it would appear that much depended upon the nature of the dispute and the attitudes of the parties. The latter was particularly true with the Great Powers. As with the other methods that the League Council resorted to, the Rapporteur was appointed to attempt a settlement of the dispute if the Council considered that the technique (Rapporteur) stood a reasonable chance of settling the dispute.

international disputes peacefully. The appointment of a Special Rapporteur did not await the convening of a regular session of the League Council, as was the case with the Regular Rapporteur (except when a routine or non-political question was brought to the attention of the League Council in the interval between the sessions of the Council). Instead, the Special Rapporteur was often appointed during an emergency meeting of the League Council, and because the President of the Council had appointing power, the Special Rapporteur could be appointed by the President even without a meeting of the League Council.

The Special Rapporteur shared one function with the Regular Rapporteur: that of investigating or gathering information on questions under their respective charge, and of course, doing all that with the collaboration of the League Secretariat. However, while the Regular Rapporteur's activities were almost totally conducted at the League's headquarters and based almost exclusively on documents made available to him by the appropriate section of the Secretariat, the Special Rapporteur could, and would, actually conduct his own investigations, and often travelled to the states in dispute, or to some other places outside the League headquarters. Thus, for example, M. Paul Hymans, Rapporteur for the Vilna Dispute between Lithuania and Poland, left Geneva to meet the Polish and Lithuanian representatives in Brussels.⁴¹

⁴¹In the Vilna Dispute the parties met in Brussels with the Rapporteur.

This also occurred with regard to the Mosul Question.⁴²

Furthermore, the Special Rapporteur performed the following functions: (a) mediating between the parties to a political dispute with the aim of settling the dispute peacefully; (b) leading the discussions in the League Council with regard to a specific dispute with which the Council of the League of Nations was seized and for which that Special Rapporteur was in charge; (c) preparing and presenting a report which contained the Rapporteur's recommendations for the settlement of the particular dispute which was usually in the form of a draft resolution of the League Council.

It is with regard to the three above mentioned activities of the Special Rapporteur, that is, mediation, report-presentation and the leading of discussions in the Council, that the main thrust of this study is concerned.

Another distinguishing feature of the Special Rapporteur was its individualistic and independent character. While the Committee Rapporteur and the Regular Rapporteur were clearly the representatives of the member states acting in their official representative capacity, the special Rapporteur tended to behave in that role as an individual and in a private capacity. It was as if, for instance, H.A.L. Fisher, the individual and not the British Representative, had been appointed the Special Rapporteur for the Aaland Islands Question.

⁴²Brussels was again used as the meeting place between the parties (Turkey and Great Britain) under the Chairmanship of the Rapporteur.

It cannot be denied, however, that an element of ambiguity existed as to whether the Special Rapporteur was the individual representative acting in his private capacity or whether he was acting in the capacity of the state or government of which he was the official representative. The ambiguity may perhaps be traced back to a habit of the League Council whereby the Special Rapporteur was referred to either by his name or official title, "Representative of State so-and-so." At the very beginning of the League of Nations' existence the problem of the independence or status of the Special Rapporteur became a contentious issue. This was debated at some length in the League Council at an early stage.

During the Second Session and Fifth Session of the Council, the nature of the Rapporteur was examined critically.⁴³ The subject arose in the Council when the latter was engaged in the formulation of its Rules of Procedure, and in particular, during the discussions as to the appropriate method for appointing government representatives to the League Council.

During the third meeting of the Second Session of the Council which was held on February 12th, 1920,⁴⁴ Signor Maggiorino Ferraris of Italy, who had been appointed Rapporteur for the "Order of Procedure

⁴³Third meeting of the Second Session of the Council of the League of Nations, and the Second (private) meeting of the Fifth Session of the Council, which were held in London on February 2, 1920 and on May 14, 1920 in Rome, respectively; see, League of Nations, Minutes of the Council, (1 - 8), pp. 3 and 21.

⁴⁴Second Session of the Council, ibid.

of the Council," suggested that the government representatives should be appointed by the Minister of Foreign Affairs, who would also provide a substitute representative just in case of illness of the official representative. A. J. Balfour of Great Britain objected to that idea because it seemed to suggest to him a kind of permanent representative, which would lead to some rigidity in the processes of the Council.⁴⁵ He advocated, instead, a flexible scheme in which "full liberty and complete elasticity should be preserved," because each subject might require a different calibre of representation. Although Léon Bourgeois came to support Signor Ferraris, Balfour's objection could not be overlooked. At Balfour's suggestion a "special committee" was created to draft the "Order of Procedure of the Council."

When the "Special Committee" reported its draft proposals to the Fifth Session of the League Council, which was held in Rome in May, 1920, it seemed that the original subject had been shifted or expanded into one of the relationship between the governments and their representatives in the League Council. The Committee proposed that "the invitations to attend the Council should be addressed to the Representatives of the Council and not to the Governments." As M. Tittoni, who had replaced Signor Ferraris as Rapporteur, was reported to have argued:

... the Council was not a Conference of Governments, but that the Delegates, once appointed, were free to act as members of an international body as independent as magistrates of a court. He submitted that the whole future of the League depended upon convincing the world that the Delegates on the Council were not mere puppets of which the governments held their strings.⁴⁶

⁴⁵Fifth Session, op. cit.

⁴⁶Second and Fifth Sessions, ibid.

Again, Balfour seems to have strongly disagreed, warning the League Council that the delegates would be unable to do anything without the approval of their governments, and that the Council would not be allowed to become an independent body. At that juncture the matter seemed to have been left to rest. Two days later (17th May, 1920), the official text of the Rules of Procedure of the Council of the League of Nations were adopted without reference to the subject.⁴⁷

Time and actual practice, however, have a way of resolving certain seemingly insoluble problems. Such was the case with the Rapporteur-individual and Rapporteur-state deadlock. First, in appointing a Rapporteur for a particular question, it became the practice of the Council to ascertain that the representative's home government had no apparent interest, or special reason to be interested, in the dispute for which its representative was being considered as Rapporteur. This was a meaningful precaution because there was always the possibility that a government, when it considered that its national interests were being affected or threatened by a dispute for which its Council representative was the Special Rapporteur, would instruct the latter to act in his national interest. When the Special Rapporteur continued to receive instructions from his government including, in particular, instructions concerning the manner in which he was to settle the specific dispute under his Rapporteurship, then the government could be rightly considered the true Rapporteur. In that sense, of course, the true meaning and pur-

⁴⁷League of Nations, Minutes of the Council (1 - 8), 1920, Annex.

pose of Rapporteurship would have been lost. Thus, the League's failure to settle satisfactorily the Vilna Dispute between Poland and Lithuania (to be examined more thoroughly in Chapter V) may be attributed to the influence that the government, especially that of France, exerted over the Special Rapporteur, M. Paul Hymans of Belgium.

Basically, however, it was never intended that the settlement of any dispute would be in the specific interest of the Rapporteur as a representative of a national government. For, behind the idea of Rapporteurship were two related objectives: that the settlement of the dispute would first be in the interests of the primary parties to the dispute; and, also, to the international community as a whole.

There is ample evidence that Special Rapporteurs in the League of Nations genuinely tried to act independently, and to discharge their Rapporteur responsibilities as true agents of the League Council. It is also true, however, that on the whole, governments did not interfere with the function of Rapporteur.

The most successful Special Rapporteurs were national representatives belonging to this category of "independent" actors. A good example is Sir Austen Chamberlain of Great Britain. It is revealing that Sir Austen could complain, at one time, that his government seemed to have two contradictory foreign policies: one in Geneva, and the other in London.⁴⁸ In fact, that statement revealed that the British Govern-

⁴⁸ Chamberlain Papers, AC 52/704.

ment did not unduly influence the behaviour of its representatives in Geneva, especially when they were on official League of Nations business.

The experience of the League of Nations also suggests that successful Rapporteurship was, aside from individual skill and ability, a function of commitment by the individual Rapporteur to the League of Nations and the international community, usually displayed by the individual's neutrality and independence. Thus, before any appointment, the President of the Council saw to it that the parties to the disputes were satisfied with the proposed Rapporteur. For, the attitudes of the parties towards the Rapporteur were an important factor in the outcomes of all mediation activities by Rapporteurs.

CHAPTER III

THE RAPPORTEUR AND INTERNATIONAL

DISPUTES: AN OVERVIEW

In this chapter, a brief general overview of the disputes which were brought to the attention of the Council of the League of Nations will be considered with respect to Rapporteur involvement. A suggested classificatory scheme of those disputes which were fully handled by the Council will be presented,¹ with special regard to Rapporteurship. This is considered necessary to facilitate a proper understanding of the more detailed analyses that follow in the succeeding chapters.

(i) Covenant Provisions

Article 15 of the Covenant of the League of Nations stipulated that if a dispute arose between members of the League of Nations² which they could not settle directly by diplomacy and/or which they could not agree to submit to arbitration or judicial settlement in accordance with Article 13 of the Covenant, the members of the League of Nations agreed that they would submit the matter to the League Council (Article 15, paragraph 1). Such submission of a dispute was for the purposes of

¹See pp. 60-61, 65-66, 78 below.

²Article 17 of the League Covenant provided for those disputes which also involved non-members of the League of Nations. By and large, the Article provided that for the purposes of the attempted settlement by the League Council and for the duration of that particular dispute, the non-member would enjoy the same rights and be accorded the same treatment as a full member.

"enquiry by the Council" (Article 12, paragraph 1). The usual procedure for the submission of a dispute was that "each member of the League," armed with "the friendly right" "to bring to the attention of the Assembly or of the Council" (Article 11, paragraph 2) the existence of a dispute of a nature likely to lead to a rupture, gave "notice of the existence of the dispute to the Secretary-General" (Article 15, paragraph 1). After the latter had made all "necessary arrangements for a full investigation and consideration thereof," the next stage was set for the submission of "statements of their [the parties] case with all relevant facts and papers" to the League Council (Article 15, paragraph 2), usually meeting in extraordinary session.

The immediate responsibility of the League Council was to try to settle the dispute there and then in the Council meeting in session. This took place after the parties had been given an opportunity to state their respective cases in a public meeting of the Council. Immediately after listening to the respective statements of the parties to the dispute, a Rapporteur was appointed who had to prepare and present a report to the League Council in which he suggested the appropriate procedure to be followed in the dispute. Depending on the nature of the statements presented by the parties and their attitudes, direct negotiations were resorted to under the guidance and chairmanship of the Rapporteur.

There seems to have been no hard and fast rule binding the League Council to appoint a Rapporteur for a specific dispute at any stage in its deliberations. The President of the League Council, who

usually made all the appointments on behalf of the Council, seems to have had discretionary power on this issue. However, when a decision to appoint a Rapporteur was made, it was usually quite early in the consideration of a dispute.

Immediately after a dispute was placed on the agenda of the Council of the League of Nations, the President of the Council, in consultation with the Secretary-General of the League of Nations, appointed a suitable Rapporteur provisionally, subject to the acceptance of the particular appointment by the parties to the dispute and official confirmation by the Council.

The appointment of a Rapporteur for a dispute did not necessarily await the meeting of the League Council on the respective dispute, nor was the appointment determined by whether or not the League Council had decided to settle the dispute itself. This should explain why certain disputes, although they were eventually settled by instrumentalities outside the auspices of the League Council, had Rapporteurs. By and large such Rapporteurs hardly performed their expected functions beyond the initial stage when the dispute was still being considered by the Council of the League of Nations.

Not all the disputes in the League of Nations were handled, let alone settled, by the machinery of the League of Nations. Even those disputes whose attempted or ultimate settlement was handled by the League of Nations, were not necessarily settled through the employment of any single method. The settlement of international disputes is an

5

art in which a particular procedure and technique or a combination of them was applied, usually in circumstances of multiple influences and pressures.³ In this regard, although this study singles out only the Rapporteur technique, it must be understood that this is done for analytic purposes only. Otherwise, in the normal course of dispute settlement by the Council of the League of Nations, all kinds of techniques, pressures and persuasions were applied, occasionally simultaneously, to ensure positive results.⁴

(ii) International Disputes⁵

In total, approximately sixty disputes were brought to the attention of the Council of the League of Nations during the twenty-year period of its existence.⁶ Of these, only twenty-eight dis-

³The latter is well illustrated in two studies by James Barros. See James Barros, The Aland Islands Question: Its settlement by the League of Nations (New Haven: Yale University Press, 1968), and, by the same author, The League of Nations and the Great Powers (Oxford: At the Clarendon Press, 1970).

⁴Besides Rapporteurship, techniques resorted to by the League Council included the following: Conciliation; Council Debates and Publicity; Commissions of Enquiry; Good Offices and Mediation; Seeking the Court's Advisory Opinion; and Council Committees..

⁵A recent study on the "political aspects" of international disputes is by F.S. Northedge and M.D. Donelan, International Disputes (London: Europa Publications for the David Davies Memorial Institute of International Studies, 1971). See, in particular, Part Three: Solutions, pp. 187-340.

⁶There is no agreement among scholars as to the number of disputes which were submitted to the League of Nations. The numbers often mentioned are between 60 and 66. See, Stanley J. Michalak, "United Nations and the League," in Leon Gordenker (ed.), The United Nations and International Politics (Princeton, N.J.: Princeton University Press, 1971), pp. 39-83, and 102; Quincy Wright, The Study of War (Chicago: The University of Chicago Press, 1942), p. 1430; and L. Larry Leonard, International Organization (New York: McGraw-Hill Book Company, 1921), pp. 130 and 174-5. While Leonard says there were "60" disputes, Wright gives the figure of "66."

putes⁷ were fully dealt with through the machinery of the League of Nations. The overwhelming majority of these disputes had a Rapporteur appointed to oversee the attempted settlement.

The remainder of the disputes, however, about thirty-eight of them, were handled or settled by means of agencies other than the Council of the League of Nations. For example, four of the disputes which had been formally reported⁸ to the League Council were withdrawn before the Council had had a chance to meet in session. There were other disputes which, for a variety of reasons, the Council of the League of Nations was unable to deal with. These disputes were either tactfully ignored by the League Council,⁹ recommended for direct negotiations right away,¹⁰ or transferred to other agencies such as the Conference

⁷Two of the disputes had two phases each, an early phase as well as a second phase. Those disputes were: (1) The Vilna Dispute (1920-23) and (1927-28); and (2) Hungarian Optants (1923) and (1927-28). For the purposes of this study these separate phases of the above disputes are treated as separate disputes. The reason is that for both disputes, the second phase, although related to the earlier phase, the issues were in both cases different from the first phase, and each had a different Rapporteur.

⁸These were: The Enzeli Affair (1920) between Persia and Bolshevik Russia; the Tacna-Arica Question (1920) between Bolivia and Chile; the Coto Region Affair (1920-21) between Costa Rica and Panama; and the Ancon Treaty Dispute (1920) between Peru and Chile.

⁹There were two such ignored disputes: the Anglo-Italian Agreement of 1926 between Ethiopia on one side and Great Britain and Italy on the other; and, the Question of the Bahrein Islands (1927-29) between Persia and Great Britain.

¹⁰There were five such disputes: (1) The Question of the Hungarian Frontier (Armed Bands) of 1922; the Question of the Territory of Memel (1923-24); (3) the Question of Unequal Treaties (1929); (4) the Question of Swiss War Losses (1934-35), and (5) the Question of Eastern Carelia (1922-23). The last dispute was not exactly "recommended" as the League Council had had no real choice in the matter. As Russia, a non-member of the League of Nations, would not co-operate with the League Council, the latter organ merely accepted whatever "negotiations" were going on between Russia and Finland as a factual situation beyond their control.

of Ambassadors and Mixed Commissions which were created as a result of the Paris Peace Treaties following the end of World War I.¹¹

Finally, there were those disputes, largely of a justiciable nature which, because they were non-political and therefore unlikely to lead to a "rupture," were handled by judicial procedures, such as submission to arbitration, judicial settlement or an Advisory Opinion of the Permanent Court of International Justice.

While it is true that many disputes were ultimately handled or settled by other agencies, and not by the Council of the League of Nations, it must be noted that that did not necessarily eliminate the influence of the League Council in the outcomes of those disputes. In fact, in a number of such disputes, the League Council continued to exert considerable influence, if indirectly, through its original recommendations given at the time when the Council decided against handling them. For a number of these disputes, the Council's recommendations were based on the Rapporteur's own recommendations and suggestions. A number of disputes had been deliberated upon in the League Council long enough for a Rapporteur to be appointed to take charge of the attempted settlement.¹² However, under such circumstances (when disputes had to be referred from the League Council), the role of the

¹¹There were nine such disputes, namely: (1) Tunis-Moroccan Nationality Decrees (1922-23); (2) St. Naoum Monastery Dispute (1925); (3) Greek-Turkish Exchange of Nations (1924); (4) Expulsion of the Oecumenical Patriarch (1925); (5) The Cruiser "Salamis" Case (1927-28); (6) Albanian Properties and Minorities in Greece (1928); (7) Greek-Turkish Mixed Commissions Duties (1928); (8) Austro-German Customs Union (1931); and (9) Bulgarian-Czech Debts (1931-32).

¹²Rapporteurs were also appointed, however, by the President of the League Council when the latter body was not, or because it was not, in session.

Rapporteur tended to remain minimal, as indicated in the following short summary.

(iii) Limited Rapporteurship

When a dispute was first submitted to the League Council, several alternative courses of action were often open to that organ. If a dispute was referred to the League Council during its regular session—provided, of course, that the dispute was considered to be of a serious nature—the League Council was almost invariably summoned to an extraordinary session. The parties to the dispute then gave opening statements of their respective positions. At that stage the Council would usually decide whether or not it was competent to handle the dispute. If the Council decided to try to settle the dispute, the usual procedure involved the appointment of a Rapporteur. If, on the other hand, the particular dispute was found not to fall within the jurisdiction of the League Council, the probability was that no Rapporteur would be chosen, unless he had been appointed prior to that decision.

If disputes were submitted when the League Council was not in session, the President of the Council usually made the Rapporteur appointments for the disputes, irrespective of whether or not the disputes would eventually be handled by the League Council. As soon as a dispute had been placed on the agenda of the next session of the Council, a Rapporteur was often appointed by the President.

Of the thirty-eight or so reported disputes which were eventually handled by machinery outside the auspices of the League Council, nine

of them had Rapporteurs appointed for them. Those disputes were:

(1) Question of Eastern Carelia (1922-23); (2) the Tunis-Moroccan Nationality Decrees (1922-23); (3) Question of St. Naoum Monastery (1924); (4) Expulsion of the Oecumenical Patriarch (1925); (5) Maritza Delta Dispute (1926); (6) Question of the Cruiser "Salamis" (1927-28); (7) Exchange of Greek-Turkish Populations (1928); (8) Question of Albanian Properties and Minorities in Greece (1928); and (9) Question of Swiss War Losses (1934-35).

Vittorio Sciolaja, League Council representative of Italy, was the Rapporteur for the Question of Eastern Carelia (1922-23), a dispute between Finland and Russia.¹³ Contrary to Sciolaja's recommendations to the League Council, that dispute was not formally considered by the League Council as Soviet Russia, not being a member of the League of Nations, refused to cooperate with both the League Council and the Court.¹⁴ In fact, there is no evidence available to suggest that the Rapporteur ever

¹³League of Nations, Monthly Summary, Vol. I, 1 (January, 1922); Vol. III, 2 (February, 1923); Vol. III, 9 (September, 1923); Vol. IV, 4 (April, 1924). Finland had appealed to the League Council against Russia's violation of their Treaty of Dorpat which had been signed on October 14th, 1920, and for acts of violence which were perpetrated by Russia in Eastern Carelia. For the latter, see: League of Nations, Official Journal, Special Supplement No. 11, including Council Resolution of November 24th, 1923, on the Eastern Carelia question. See also: League of Nations, Document A.88.1923.VII: Proposal Presented by Finnish Delegation Concerning Eastern Carelia, Report Presented by the Sixth Committee to the Assembly.

¹⁴Manley O. Hudson, ed., World Court Reports (Washington, D.C.: Carnegie Endowment for International Peace, 1934-1943), Vol. I, p. 190. For the Court's ruling that it could not pass any Advisory Opinion on the matter because Soviet Russia had refused to appear in Court, see: Permanent Court of International Justice, Series B, No. 5; also, Hudson, ibid.

tried to mediate directly between the parties.¹⁵

The Rapporteur for the Tunis-Moroccan Nationality Decrees (1922-23) dispute¹⁶ between France and Great Britain was the Japanese representative, Adatci.¹⁷ His appointment as Rapporteur for this dispute does not seem to have been of any real consequence, at least, with regard to the immediate purpose of settling the particular Franco-British dispute.¹⁸ France and Great Britain effectively prevented the

¹⁵"Finland and Union of Soviet Socialist Republics: Exchange of Notes Appointing Frontier Commission on the Carelian Isthmus," 82 Treaty Series, pp. 63-69.

¹⁶League of Nations, Official Journal, 3rd Year, No. 11 (Part 2), November 1922. This was the occasion of the 17th meeting of the Twentieth Session of the Council of the League of Nations which was held on October 2nd, 1922, in Geneva. See also: Ottawa, Public Archives Records Centre, Official File No. 265184: Dispute Between France and Great Britain as to Nationality Decrees Issued in Tunis and Morocco (French Zone), November 8, 1921, and their application to British Subjects.

That the dispute had to reach the League Council was due to France's refusal to Britain's suggestion for arbitration. See, League of Nations, Document C.422.M.186.1923.V.: Communications from the Secretary-General to all League Council Members, 27th June, 1923. The same statement is available under the League of Nations' Document 19/28893/2-2587. The refusal of the French Government was contained in a letter, dated March 22, 1922, in which Poincaré (President of the Council of Ministers and French Foreign Minister) recalled that their (with Great Britain) Arbitration Convention of October 14, 1903, did not apply in this latest dispute because the "interests of a Third Party, Tunis, were affected," p. 18. Also, Ottawa, PARC, Official File No. 265184, contains relevant information.

¹⁷It is interesting to note that a representative of one of the Great Powers was appointed Rapporteur of this particular dispute—the only dispute, in fact, in which Great Powers were the only parties to a dispute in the League of Nations.

¹⁸League of Nations, Document C.L. 132.1922.V.: Transmission of French-British Request for Advisory Opinion Together with a Certified Copy of the Transmission under Article 73 of the Rules of the Court of International Justice.

League Council from dealing with the substance of the dispute by their acceptance, in advance, of an agreement to abide by the award of the Permanent Court of International Justice.¹⁹ Thus, the presence of a Rapporteur for this dispute was rendered superfluous. And yet, perhaps for reasons relating to the institutional development of the League of Nations, rather than for anything else, the two Great Powers accepted the appointment of Adatci as Rapporteur for the dispute. The decision to appoint a Rapporteur may have been designed to impress other League members that even the Great Powers were not totally immune from the application of the techniques available to the Council for peaceful settlement.

In the three disputes of St. Naoum Monastery Question (1924) between Albania and Yugoslavia, the Greco-Turkish Exchange of Nations (1924) between Greece and Turkey, and the Expulsion of the Oecumenical Patriarch (1925) between Greece and Turkey, Rapporteurs were appointed, but played relatively unimportant roles. Quinones de Leon of Spain who was Rapporteur for the St. Naoum Monastery dispute²⁰ and Viscount K. Ishii of Japan who was Rapporteur for the latter two disputes, were

¹⁹Advisory Opinion No. 4 of the Permanent Court of International Justice, Note by the Secretary-General, February 13, 1922. The "Note" contained the Court's Advisory Opinion. See also, Publications of the Permanent Court of International Justice, Series B., No. 4, February 7th, 1923, pp. 31-32. The British case was submitted on November 25th, 1922, while the French case was filed on December 23rd, 1922. See: Ottawa, PARC, Official File No. 265184, which contains documents of the two cases.

In its Advisory Opinion, the International Court stated: "The Court is of the opinion that the dispute referred to in the Resolution of the Council of the League of Nations of October 4th, 1922, is not, by international law, solely a matter of domestic jurisdiction, and therefore, replies to the question in the NEGATIVE."

²⁰The question was referred to the League Council on June 4th, 1924. See also, League of Nations, Monthly Summary, Vol. IV, 6 (June, 1924), pp. 120-121.

initially responsible for the League Council's decisions to seek the Advisory Opinion of the Court for the three disputes. The subsequent Advisory Opinions of the Court²¹ which removed the disputes from the League Council's jurisdiction, also ended the Rapporteur's role in each of the disputes. It was only in the Expulsion of the Oecumenical Patriarch dispute that the Rapporteur played a slightly more decisive role. In that dispute, not only did Viscount Ishii announce the withdrawal of the question from the Council's agenda,²² as well as the cancellation of the request for an Advisory Opinion, but he was responsible for the initiation of private negotiations that took place between the parties to the dispute before and after those withdrawals.

In the remaining four relatively minor disputes which the League Council chose not to deal with, the Rapporteur seems to have played some identifiable, if not significant role in each case. In the Maritza Delta dispute (1926)²³ between Greece and Turkey, it would appear that most important decisions were made by the Committee of

²¹Ibid. The Advisory Opinion of the Court, which affirmed a previous decision of the Conference of Ambassadors, was communicated to the latter body on October 3rd, 1924. For the Greek charge against the Turkish Government, see: League of Nations, Monthly Summary, Vol. V, 2 (February, 1925), p. 54. A concise summary of the Turkish case in which the League Council was requested to set aside the Greek appeal to the Council as the case was "purely domestic," and for the Council's decision, see: League of Nations, Monthly Summary, Vol. 5, 3 (March, 1925), p. 81.

²²The withdrawal of the question from the Council's agenda by the Rapporteur (Viscount Ishii) is contained in the Monthly Summary, Vol. V, 6 (June, 1925), p. 161.

²³League of Nations, Monthly Summary, Vol. VI, 2 (February, 1926), p. 45; ibid., Vol. VI, 3 (March, 1926), pp. 74-75.

Three Jurists,²⁴ and not by the Rapporteur, although it was the Rapporteur who had first recommended to the League Council the idea of creating the Committee of Three Jurists²⁵ as the most appropriate body to advise the League Council. In the Cruiser "Salamis" case (1927-28) between Greece and Germany concerning a 1914 contract between the Greek Government and the Vulcan Works Company of Stettin (in Germany) for the building of a cruiser called "Salamis,"²⁶ the Rapporteur (Colombian Representative Urrutia) recommended that the League Council seek the Court's Advisory Opinion on the matter. Instead, the League Council sought advice from the legal advisors of its own members.

The same procedure was followed with the Albanian Properties and Minorities in Greece (1928) in which Albania had requested the League Council to seek the Advisory Opinion of the Court in its dispute with Greece, concerning the alleged sequestration of properties belonging to Albanians who were resident in Greece, and their ill-treatment in Greece. The League Council through its Rapporteur (Sir Austen Chamberlain), determined that the dispute was a "case

²⁴The leader of the Committee of Jurists, de Mello Franco of Brazil, advised that "the Council cannot at present deal with the question under Article 11 (2)," T. P. A. Conwell-Evans, The League Council in Action (London: Oxford University Press, 1929), p. 223.

²⁵Denys Myers, Handbook of the League of Nations (New York: World Peace Foundation, 1935), p. 322. Myers does not give the name of the Rapporteur and this writer has been unable to discover the identity of that Rapporteur.

²⁶League of Nations, Monthly Summary, Vol. VII, 9 (September, 1927), pp. 294-295.

of the protection of minorities and that therefore it should not become a dispute between neighbouring states." Sir Austen Chamberlain, the British representative, further urged Albania and Greece to continue their direct negotiations on the issue of properties. Finally, in the Swiss War Losses Question (1934-35) between Switzerland on one hand, and France, Britain, Italy and Germany on the other, it was the Rapporteur (Representative Cantilo of Argentina) who decided that the dispute constituted no danger of a "rupture"²⁷ and that therefore there was no need for an Advisory Opinion of the Court. Instead, he advised that direct negotiations between the parties be resumed.

(ii) Disputes Handled by the Council of the League of Nations

The following table shows those disputes which were handled fully by the Council of the League of Nations:

Disputes	Disputants	Date
1. Aaland Islands Question	Finland v. Sweden	1920-21
2. Eupen and Malmedy Dispute	Germany v. Belgium	1920-21
3. Vilna Dispute (1st Phase)	Poland v. Lithuania	1920-23
4. Albania Frontier Dispute	Albania v. Yugoslavia	1921-24
5. Question of Upper Silesia	Germany v. Poland	1921-23
6. Burgenland Question	Austria v. Hungary	1922
7. Jaworzina Dispute	Poland v. Czecho-slovakia	1923

²⁷Myers, op. cit., pp. 357-8. See also, League of Nations, Official Journal, September 1934, p. 1478.

Disputes	Disputants	Date
8. Hungarian Optants (1st Phase)	Hungary v. Roumania	1923
9. Corfu Incident	Greece v. Italy	1923
10. Koritza Question	Albania v. Greece	1924
11. Question of Mosul	Britain v. Turkey	1924-26
12. Demir Kapu Incident	Bulgaria v. Greece	1925
13. Vilna Dispute (2nd Phase)	Poland v. Lithuania	1927-28
14. Hungarian Optants (2nd Phase)	Hungary v. Roumania	1927-28
15. Szent-Gotthard Incident	Hungary v. Little Entente	1928
16. Chaco Conflict	Bolivia v. Paraguay	1928-35
17. Rhodope Forests Dispute	Greece v. Bulgaria	1930-34
18. Manchuria Conflict	China v. Japan	1931-33
19. Finnish Vessels Dispute	Britain v. Finland	1931-34
20. Dismissal of Memel Official	Poland v. Germany	1932
21. Anglo-Persian Oil Dispute	Britain v. Persia	1932-33
22. Leticia Incident	Peru v. Colombia	1933
23. International Terrorism	Hungary v. Little Entente	1934-35
24. Iraq-Persian Dispute	Persia v. Iraq	1934-35
25. Abyssinian War	Ethiopia v. Italy	1935-38
26. Soviet-Uruguay Relations	Russia v. Uruguay	1936
27. Sanjak of Alexandretta	France v. Turkey	1936-37
28. Russo-Finnish War	Russia v. Finland	1939

The above chronological listing of the disputes reveals that 16 of the disputes arose or developed before 1930, while 12 came up after

1930. No meaningful insight really emerges out of this until one looks at the nature of the disputes themselves, including their geographical distribution, some characteristics of the parties to the dispute and which of these disputes made use of the Rapporteur technique for their settlement.

First, the geographical distribution of the 28 disputes: eighteen of them occurred in Europe and only ten of the disputes took place outside Europe, that is, in Asia, the Middle East, South America and Africa. However, if the twenty-year period of the League's existence is divided into two equal parts²⁸ (1920-1929 and 1930-1939), a different picture presents itself. It would appear that all the disputes (18 of them) which were handled by the League Council during the first period (1920-29) were European. During the second period (1930-39) only three disputes (Finnish Vessels, Dismissal of Memel Official and International Terrorism) were European disputes, while the remaining nine disputes took place outside Europe. That is, from the above chart, it would appear that, during the first period, the League of Nations seemed to be mainly preoccupied with European disputes,

²⁸The habit of chopping up the flow of events into historical periods is an arbitrary and subjective phenomenon. It depends largely on the specific purpose for which the historian intends to use his particular division. To that extent, the division of the 20-year history of the League of Nations here is no exception. This writer is persuaded that not only was 1930 the halfway point of that epoch, but, as a result of the stock-market "crash" of 1929 and the consequent economic strains, international politics also seemed to take a new turn. In its global complexion—an "each one for himself and free for all" struggle, especially among the Great Powers—became reflected in the outward preoccupation of the League of Nations during the second period.

while a relatively clear shift seemed to have occurred during the second period in which a proportionately larger number of non-European disputes were brought to its attention for possible settlement.

These differences in the number and geographical distribution of the disputes handled by the League Council during the first period (1920-29) and second period (1930-39) of the League's existence are difficult to explain. Perhaps it had to do with the immediacy of the European problems to the League of Nations, especially following the First World War. That in the first period the League Council paid less consideration to non-European disputes, however, can be accounted for. For example, a number of disputes which took place in South America early in the history of the League of Nations were not considered by the League Council, although they had been formally reported. Those disputes were: Tacna-Arica Affair (1920-21); Ancon Treaty Dispute (1920); and the Coto Region Affair (1921). It can even be argued that the manner in which the Chaco Dispute between Bolivia and Paraguay was handled by the League Council reveals the European preoccupation of the League Council during the earlier period. For, the Chaco Dispute had first been submitted to the League Council during the first period, in 1928, and at that time it was ignored by the Council. It was only in 1935, during the second period, that the League Council decided to attempt seriously to settle the dispute.

For the purposes of this study, however, the outcomes of the attempted settlements of the disputes by the League Council may be

more significant. Without entering into any details of how the League Council went about settling each individual dispute, it suffices at this stage to state that, by and large, the League Council was more successful in its settlement of disputes during the first period than during the second period. No doubt, there were difficult disputes during the first period such as the Vilna Dispute which lasted from 1920 to 1928, and the Hungarian Optants Dispute which was drawn out for five years from 1923 to 1928. There were other serious disputes during the first period which actually involved force or violence, such as the Corfu Incident (1923) between Greece and Italy, and the Demir Kapu Incident (1925) between Bulgaria and Greece. Nevertheless, all these disputes were eventually settled, and did not lead to war. Much of the credit for that record should go to the League of Nations.

On the other hand, in the period from 1930 to 1939 the League of Nations experienced its most damaging failures. Those failures included such disputes as the Manchurian conflict between China and Japan, the Chaco Conflict between Bolivia and Paraguay, and the Ethiopian War between Ethiopia and Italy. The firm action which the League Council finally took with respect to the Russo-Finnish War of 1939 was probably an exemplary action resorted to too late.

In attempting to understand why the League Council was relatively successful in settling disputes during the first period, and unsuccessful during the second period, the temptation is to say that there were a host of factors. It is probably correct that many factors were re-

sponsible. However, as a useful beginning, one of the possible explanatory factors—the role of the Rapporteur—will be examined. As a first step, the table below shows the twenty-eight international disputes and the Rapporteurs appointed for the settlement of each.

Dispute	Date	Rapporteur
1. Aaland Islands Question	1920-21	H.A.L. Fisher A.J. Balfour
2. Eupen and Malmedy Dispute	1920-21	M.K. Matsui
3. Vilna Dispute (1st Phase)	1920-23	Paul Hymans
4. Albania Frontier Dispute	1921-24	A.J. Balfour
5. Question of Upper Silesia	1921-23	Viscount K. Ishii
6. Burgenland Question	1922	Paul Hymans
7. Jaworzina Dispute	1923	Quinones de Leon
8. Hungarian Optants (1st Phase)	1923	M. Adatci
9. Corfu Incident	1923	
10. Koritza Question	1924	Arthur J. Balfour
11. Question of Mosul	1924-26	K.H. Branting O. Unden
12. Demir Kapu Incident	1925	Austen Chamberlain
13. Vilna Dispute (2nd Phase)	1927-28	B. Van Blokland
14. Hungarian Optants (2nd Phase)	1927-28	Austen Chamberlain
15. Szent-Gotthard Arms Incident	1928	B. Van Blokland
16. Chaco Dispute	1928-35	
17. Rhodope Forests Dispute	1930-34	Anthony Eden
18. Manchuria Conflict	1931-33	

Dispute	Date	Rapporteur
19. Question of Finnish Vessels	1931-34	Salvador de Madariaga
20. Dismissal of Memel Official	1932	Eric Colban
21. Anglo-Persian Oil Dispute	1932-33	Eduard Benes
22. Leticia Incident	1933	
23. International Terrorism	1934-35	Anthony Eden
24. Iraq-Persian Frontier Dispute	1934-35	Bompeo Aloisi
25. Sanjak of Alexandretta	1936-37	Richard Sandler
26. Abyssinian War	1935-38	
27. Soviet-Uruguayan Relations	1936	Nicolas Titulesco
28. Russo-Finnish War	1939	

If one starts out with the hypothesis that Rapporteurship was an important factor in the settlement of international disputes in the League of Nations, it follows that the next logical step would be to examine the extent to which Rapporteurs were involved in the attempted settlement of the twenty-eight disputes listed above. The following chapters are designed to deal with that issue.

(v) Great Powers and Lesser Powers

In order to examine the role of the Rapporteur in the settlement of international disputes in the League of Nations, the twenty-eight disputes have been divided into two major categories:

- (1) Great Powers (or those disputes involving the Great Powers); and
- (2) the Lesser Powers (or those disputes involving the Lesser Powers).

By Great Powers is meant the following countries:²⁹

1. Great Britain;
2. France;
3. Italy;
4. Japan;
5. United States of America;
6. Russia;
7. Germany;

²⁹ Article IV of the Covenant of the League of Nations states: "The Council shall consist of Representatives of the Principal Allied and Associated Powers. . . ."

The identity of the Great Powers immediately before and after World War I was not difficult. It was a matter of practical recognition and common acceptance of the differences in power and influence among nation-states. This dichotomy between the Great Powers and Lesser Powers became institutionalized in the Covenant of the League of Nations in which the Great Powers became permanent members of the League Council, except the United States, Germany and Russia, which were not members of the League of Nations. When Germany and Russia joined the League of Nations, they automatically joined the other great powers as permanent members of the League Council, leaving only the United States out. See Charles Seymour, The Intimate Papers of Colonel House (Boston and New York: Houghton Mifflin Company, 1928), pp. 24-26.

that is, the Principal Allied Powers in the First World War; Russia; and the Allies' chief opponent, Germany. All except the United States and Russia (until 1933), were members of the League of Nations. The rest of the members of the League of Nations could be considered Lesser Powers. In numbers, the latter group meant between 40 and 45 states, depending on the period and time being referred to, and the variation being due to withdrawals and admittances of new members to the League.³⁰

As a description of an identifiable class or ranking of states, Lesser Powers is, however, less precise than Great Powers.³¹ This is because in the former class could be discerned another rank division: Middle Powers and Small Powers. These power categories (i.e., Great Powers, Middle Powers and Small Powers) in the international sphere are often taken for granted,³² although how the distinctions between them are

³⁰Although from 1920 to 1926 Germany was, for all practical purposes, treated as less than a Great Power—after all, she had just suffered a humiliating defeat in the war—her admittance to the League Council in 1926 as a Permanent member re-established her status as a Great Power.

³¹An illuminating study on the Great Powers is by F.H. Simmonds and Brock Emery, The Great Powers in World Politics (New York: American Book Company, 1937). Also, in an article entitled, "What is a Great Power?", The Economist of London stated that a Great Power must be "capable of waging an active and autonomous war against another Great Power," and that "for a country to be beyond question a Great Power, it must be able to fight with its own resources." See, The Economist (London), March 11, 1944, p. 330.

³²"Differences among nations in political stature and capability are customarily expressed in the vocabulary and idiom of power. States are called powers; and, . . . are classified in a hierarchy of power by such terms as Superpowers, World Powers, Great Powers, Second Class Powers, Small Powers, and so on." See, Harold Sprout and Margaret Sprout, Towards A Politics of the Planet Earth (New York: Van Nostrand Reinhold Company, 1971), p. 163.

arrived at is never made explicit. As K.J. Holsti remarked:

Observers of contemporary international politics usually make distinctions among 'great powers,' 'middle powers,' and 'small powers.' The basis for this type of classification is seldom explicit, but it is not difficult to place some states into each category.³³

In this study "Middle Power" and "Small Power" are used in a restricted and relative sense. They are restricted in the sense that only those states which were party to any of the disputes considered in the study are placed or arranged in terms of the above categories. The concepts are relative in the sense that the determination of the rank order of the states (Lesser Powers) is strictly an empirical question related to the particular dispute facing the League Council. When a

³³K.J. Holsti, International Politics (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1972), p. 76.

Not much progress has been made by scholars in classifying all states, in an absolute sense, according to the above categories. This is because there are still very difficult hurdles which must be overcome before any significant steps along those lines can be made. The state of present scholarship in the area indicates that, although there is substantial agreement on the significant criteria to be used in any classification, — for example, size, population, military capacity, gross national product, and natural resources—the problem of weighting and evaluation has yet to be tackled. Karl W. Deutsch's work is very suggestive, but tends to be limited to single-item or single-criterion classifications. The next essential step is to combine the results of the rankings under each criterion for all categories. Theoretically, this problem is probably mathematically solvable, but not much significant results can be expected before research in the field is able to cope with, and to program, the multiplicity of variables in the dynamic international situation. See, Karl W. Deutsch, The Analysis of International Politics (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1968), pp. 21-39; Michael Brecher, Bloma Steinberg, and Janice Stein, "A Framework for Research in Foreign Policy," The Journal of Conflict Resolution, Vol. XIII, No. 1, March, 1969), pp. 75-101; Hans Morgenthau, Politics Among Nations, Fifth Edition (New York: Alfred A. Knopf, 1973), pp. 103-164; and, Charles O. Lerche, Jr., and Abdul A. Said, Concepts of International Politics (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1970), pp. 68-77.

dispute did not involve one of the Great Powers, the League Council had to decide on the procedure in the full knowledge that it was dealing with Lesser Powers, which might exhibit equal capability and ranking,³⁴ or unequal rank order.³⁵ Practical experience and observation of the particular disputants helped to determine which of the parties was dominant and which was underdog. The League Council did not have a ready-made list ranking all members of the League, nor was the Council in the habit of making calculations based on the GNP, population size, size of territory, natural resources and military capability of each party to a dispute as an aid to their decisions concerning procedure, although this is not to say they were totally unmindful of these phenomena.

In terms of general objective criteria referred to above, Middle Powers were not as powerful as the Great Powers militarily and economically, although they were not at the bottom of the scale either. The middle-range status of the Middle Powers was also reflected in their populations, level of development, natural resources and their industrial-technological bases, although there were variations and exceptions. For example, Canada would have compared very well with some of the Great Powers in terms of the abundance of natural resources and the level of development, but her small population and constitutional status within the British Empire denied her Great Power status. With

³⁴Middle Power v. Middle Power, or Small Power v. Small Power.

³⁵Middle Power v. Small Power.

regard to the Small Powers, they were the weakest militarily, very small in terms of population, with a low level of economic development due to the relative absence of natural resources, and a lack of industrial and technological base and capacity.

Another criterion in determining Middle Power or Small Power status was their preoccupations with and impact upon the international system.³⁶ As contrasted with Great Powers, Middle Powers' influence or impact in international affairs tended to be regional rather than global. For example, Poland's interests and aspirations during the inter-war period seemed to be limited to the North-East and Central European area. Her disputes with Germany over Danzig; feuds with Lithuania and Czechoslovakia; and, her on-and-off wars with Russia for the control of the Ukraine, were clear manifestations of a regional international behaviour and preoccupation. The same could also have been said of countries like Greece, Yugoslavia and Turkey. For this reason, they can be categorized as Middle Powers. On the other hand, Small Powers' usual preoccupations and diplomatic expertise tended to be limited to and directed towards their own survival as political entities. Finland's and Lithuania's struggles to regain the Aaland Islands and the Vilna District, respectively; Ethiopia's pre-occupation in the Italo-Abyssinian war of 1935; and Albania's border conflicts with her neighbours—Yugoslavia and

³⁶To borrow from the Brecher, Steinberg and Stein study, *op. cit.*, it seems fitting to regard the "Global System" to be the arena for Great Powers while the "Subordinate System" to be the arena for the Middle Powers.—Small Powers are limited to "Bilateral" and "Dominant Bilateral" Systems, if at all.

Greece—were illustrations of the Small Powers' continuous battles to establish themselves as viable and legitimate political units in the international community.

Based on the above considerations,³⁷ the following chart represents the classification of all those states whose disputes were fully considered by the Council of the League in terms of the three categories:

Classification of States³⁸

Great Powers	Middle Powers	Small Powers
1. France	1. Greece	1. Albania
2. Germany	2. Peru	2. Austria
3. Great Britain	3. Poland	3. Belgium
4. Italy	4. Sweden	4. Bolivia
5. Japan	5. Turkey	5. Bulgaria
6. Russia	6. Yugoslavia	6. China
		7. Colombia
		8. Czechoslovakia
		9. Ethiopia
		10. Finland
		11. Hungary
		12. Iraq
		13. Lithuania
		14. Paraguay
		15. Persia
		16. Roumania
		17. Uruguay

³⁷According to Brecher, Steinberg and Stein, "The place of any state in the power scale depends upon a combination of four components—size, population, military capability, and economic capability"—possessed in "quality and quantity" appropriate to the rank. See, Brecher, Steinberg and Stein, op. cit., p. 90 (footnote).

³⁸Only those states which were involved in disputes handled by the League Council.

The above categories, that is, Great Powers and Lesser Powers (the latter meaning Middle Powers and Small Powers), enables us to arrange the twenty-eight disputes here under six headings which correspond to whether the parties to a dispute were Small Powers, Middle Powers or Great Powers. In this regard, at the most general and theoretical level, there would probably be six types of disputes as shown below.

- | | |
|--------------------|---------------------|
| 1. Small v. Small | 4. Middle v. Middle |
| 2. Small v. Middle | 5. Middle v. Great |
| 3. Small v. Great | 6. Great v. Great |

The choice of the above classification scheme was based on three related theoretical assumptions: (1) that the difference in the relative power of the parties to a dispute would probably be significant in determining the outcome; (2) that the differences in the relative power of the parties to a dispute would probably be a factor in the League Council's determination of the procedures or techniques for attempting to settle the dispute; and (3) that the differences in the relative power of the parties to a dispute would be a factor in determining the role which the Rapporteur would be able to play and how successful he would be.

In terms of the classification scheme suggested, the twenty-eight disputes considered here would probably be ranked thus:

I. Small v. Small:

1. Burgenland Question;
2. Hungarian Optants (A);
3. Hungarian Optants (B);
4. Iraq-Persian Dispute;
5. Chaco Dispute.

II. Small v. Middle:

1. Aaland Islands;
2. Vilna (A);
3. Jaworzina;
4. Albanian Frontier;
5. Koritza Delta;
6. Demir Kapu;
7. Vilna (B);
8. Szent-Gotthard;
9. Rhodope Forests;
10. International Terrorism;
11. Leticia Incident.

III. Small v. Great:

1. Eupen and Malmedy;
2. Manchuria;
3. Finnish Vessels;
4. Anglo-Persian Oil;
5. Soviet-Uruguayan Relations;
6. Abyssinian War;
7. Russo-Finnish War;
8. Memel Official.

IV. Middle v. Middle:

None.

V. Middle v. Great:

1. Corfu Incident;
2. Mosul Dispute;
3. Sanjak of Alexandretta;
4. Upper Silesia.

VI. Great v. Great:

None.

The preceding chart reveals that there were five disputes between Small Powers; eleven disputes between Small Powers and Middle Powers; four disputes between Middle Powers and Great Powers; none between Great Powers, although in one of the Middle Power v. Great Power disputes the Great Powers clearly took opposite sides, almost turning that dispute into a Great Power v. Great Power dispute; and, no Middle Power v. Middle Power disputes.

It should be noted that the designation "Middle" and "Small" appeared to have little practical significance when or if the powers so designated were involved in disputes with the Great Powers. For example, Italy showed the same intransigent attitude and response to the League Council's intervention in the Corfu Incident (with a Middle Power), and in the Italo-Abyssinian War (with a Small Power). For Italy, a Great Power, a dispute with a Middle Power or Small Power did not change

her behaviour. The implications of this will become clearer when the actual disputes are explored in Chapter IV. On the other hand, in disputes pitting a Middle Power against a Small Power the relative differences were somewhat more pronounced, and did produce different behavioural patterns. The long struggle between Poland and Lithuania (Middle Power and Small Power, respectively) was a case in point. So was the Demir Kapu Incident between Greece and Bulgaria (Middle Power and Small Power, respectively).³⁹

In view of the above comments, therefore, it may be possible to regroup or rearrange the six subcategories under the two major categories with which we started. That is, under the category of disputes involving the Great Powers could be included three subcategories:

(1) Small Power v. Great Power disputes; (2) Middle Power v. Great Power disputes; and (3) Great Power v. Great Power disputes. This would give us a total of twelve disputes. The other category of disputes involving the Lesser Powers would include: (1) Small Power v. Small Power disputes; (2) Small Power v. Middle Power disputes; and

³⁹ In terms of the military confrontation between Greece and Bulgaria—the circumstance that got the League Council to move swiftly to intervene—Greece was clearly the top-dog and Bulgaria the underdog. Instead of waiting for the investigation of the incident in which a Greek soldier was killed, the Greeks entered Bulgarian territory and bombed villages without any response by the Bulgarians. In fact, it was the swift action of the League Council calling on Greece to halt her aggression that saved Bulgaria from further punishment by Greece. With regard to international ranking, it does appear that Bulgaria was continuously engaged in a struggle of survival against Greece and Yugoslavia. The border clashes between Bulgarian irregulars ("terrorists") and her two neighbours resulted from claims by Bulgarians for their "lost" lands to the two states. Therefore, between the two—Greece and Bulgaria—Bulgaria was the smaller power.

(3) Middle Power v. Middle Power disputes.

The above classification scheme is important in so far as it helps to identify the rank and nature of the parties involved in the disputes. By itself, however, the scheme would not be very helpful because the Rapporteur was, after all, supposed to handle all disputes brought to the League Council irrespective of whether the parties were Great Powers, Middle Powers or Small Powers. At least, that was the theory.

A closer look at the disputes quickly establishes that a critical element in their classification was whether or not force was used or threatened by one or both parties to a dispute. The use or threatened use of force by any or all the parties to a dispute, was a determining factor in the selection and actual functioning of the Rapporteur for the settlement of the dispute by the Council. For instance, when a Great Power chose to use force against a Lesser Power, there was little that the League Council could do, and under those circumstances the Council was hardly in a position to appoint a Rapporteur for the particular dispute.

It is with the above consideration in mind that another classification scheme has been devised to be used in conjunction with the one above. In this scheme, which will facilitate the analyses of the following three chapters, force is being used as the organizing principle at the most general level. That is, all the disputes will be classified under two categories: (1) disputes in which force was used; and (2) those disputes in which no force was used. The chart below combines the two classificatory schemes. It must be emphasized, however, that force (or, no

force) had no overriding significance in the Lesser Powers' disputes (see p. 81, below). Cutting across the factors of force and the power differences were the functional aspects of Rapporteurship as indicated below (p. 81).

Disputes Involving Great Powers

Parties to Disputes	Force	No Force
Great v. Great	None	None
Great v. Middle	Corfu Incident	Sanjak of Alexandretta Upper Silesia Mosul Dispute
Great v. Small	Manchurian Conflict Abyssinian War Russo-Finnish War	Eupen and Malmedy Finnish Vessels Anglo-Persian Oil Soviet-Uruguayan Relations Memel Official

Disputes Involving Lesser Powers

Parties to Disputes	Force	No Force
Middle v. Middle	None	None
Middle v. Small	Vilna (A) Dispute Demir Kapu International Terrorism Leticia Incident	Aaland Islands Question Jaworzina Dispute Vilna (B) Dispute Albanian Frontier Koritza Delta Szent-Gotthard Crisis Rhodope Forests
Small v. Small	Chaco Dispute	Burgenland Question Hungarian Optants (A) Hungarian Optants (B) Iraq-Persian Oil

(vi) Selected Disputes

The detailed investigations contained in the following two chapters, and partly in Chapter VI as well, will be limited to a few selected disputes. The purposes of this study do not require the detailed analyses of all the disputes submitted to the League Council. Moreover, notwithstanding the unique nature of each dispute, there were sufficient similarities in the procedures taken to settle them—including importantly, Rapporteurship—to limit our analyses to selected disputes. Chapter IV, which treats those disputes in which the Great Powers were participants, three disputes will be analyzed in more detail than the others.

According to the above chart, force was used in four disputes in the category of disputes involving the Great Powers. There was one Great Power v. Middle Power dispute, three in the Great Power v. Small Power category, and none in the Great Power v. Great Power category. When confronted with the overwhelming power of the Great Powers, the differences between Middle Powers and Small Powers were negligible. As no Rapporteurs were appointed for any of these disputes, an examination of only one dispute will suffice to get some idea of why Rapporteurs were not appointed for these kinds of disputes. The Corfu Incident of 1923 was the earliest dispute in which a Great Power used force against a Lesser Power. The discussions that took place in the League Council over Italy's objections to the Council's attempts to settle the dispute best illustrate the Council's dilemma in similar circumstances.

No force was used in eight other disputes involving Great Powers. Again, it was found convenient to group all these disputes together, except to differentiate between those disputes in which the Great Power was Germany, and the rest in which other Great Powers were involved. The rationale behind this differentiation is that, as a defeated power, Germany was not in a position to use force against a Lesser Power even if it wanted to, while the other Great Powers chose not to use force. Instead, the Great Powers as well as the Lesser Powers in these later disputes accepted the Council's procedures for attempting to settle the disputes.

For the former group of disputes (Germany and the Lesser Powers) one dispute, Eupen and Malmedy Dispute, has been selected for detailed study because, not only was it one of the earliest disputes ever handled by the League Council, but it was the first involving Germany. It was also the first dispute in which the Special Rapporteur was used by the Council. For these reasons it is a good example of what could be expected from a Rapporteur when a dispute involved Germany. The dispute Sanjak of Alexandretta and Antioch was a dispute involving one of the other Great Powers in which force was not used. This is an interesting dispute because it occurred a few years before the start of the Second World War, when most observers considered the League of Nations to have reached the peak of its ineffectiveness, and yet a Great Power (France) chose to submit to the procedures of the Council for the settlement of the dispute.

In the category of Lesser Powers' disputes, five disputes involved the use of force, and no force was used in eleven of them, while there was no Middle Power v. Middle Power dispute. With regard to the League Council's procedures, the use of force by states in this category was of minor consequence. The League Council could, and did, order a cease-fire or refused to settle a dispute until there was a ceasefire. In any case, within this category, the League Council was never prevented from appointing Rapporteurs for settling the disputes merely because either or both parties had used force. With this in mind, the selection of disputes for detailed analysis will be based on functional categories relating to Rapporteurship as follows:

I. Force: disputes in which force was used:

II. No Force: disputes in which no force was used:

- (a) Direct Mediation: disputes in which the Rapporteur was able to conduct direct mediation talks between the parties;
- (b) Indirect Pressure: disputes in which the Rapporteur did not mediate directly between the parties, but used the Council forum to put pressure on them;
- (c) Council Action: disputes in which the League Council played a more prominent role in the settlement of the dispute;
- (d) Committee Action: disputes in which Rapporteurs Committees played a prominent role.

At least one dispute (Demir Kapu Dispute of 1925) will be studied in detail to illustrate how the League Council handled disputes involving

the use of force by the Lesser Powers;⁴⁰ The Hungarian Optants (1923) dispute will be studied in detail as an example of those disputes in which there was direct mediation by the Rapporteur, at the Small Power v. Small Power level;⁴¹ the Aaland Islands Question will be analyzed in detail to illustrate that sometimes Rapporteurs did not mediate directly between the parties at the Middle Power v. Small Power level;⁴² and finally, the Vilna Dispute will be examined to show that, notwithstanding the active role of the Rapporteur in a dispute, the League Council did occasionally intervene to take direct action.⁴³ The only category which is not repre-

⁴⁰Excluding the two South American disputes which did not have Rapporteurs, there were only two other disputes which could have been selected for detailed analyses, instead of the Demir Kapu Dispute. The International Terrorism (1934) dispute was extremely difficult to do research on, and the Vilna Dispute (A) seemed even more appropriate for examination at another level. This left the Demir Kapu Incident which, among other advantages, has much relevant materials readily available.

⁴¹All four other disputes at this level would have served the purpose of detailed analysis well, although the Hungarian Optants (1923) has the added attraction that it was decidedly the most difficult of the five, and one of the longest disputes, the League Council had to engage in.

⁴²As a Middle Power v. Small Power dispute in which no force was used, this dispute would have no particular advantage for selection. But, for reasons of availability of research materials as well as the added feature that it is one of the very few disputes in which Rapporteurs avoided direct mediation between the parties, it was chosen. It was also one of the most important disputes ever handled by the League in the sense that almost all the Great Powers (except Japan) had direct interest in the outcome.

⁴³The advantage of Rapporteurship over other techniques for the peaceful settlement of international disputes was that, even if the Rapporteur failed to bring about a settlement between disputing states, he could report back to the League Council of his failure, but recommend precisely identical terms which had been rejected by the parties in private mediation sessions. Faced with the same terms but in the glare of the public forum of the whole Council was expected to induce more positive responses by the parties. The Vilna Dispute best illustrates that phenomenon.

sented is the Small Power v. Small Power with force. There is only one dispute at this level, and because there was no Rapporteur appointed for the dispute, it was reserved for appropriate consideration in Chapter VI,⁴⁴ as was the Hungarian Optants (B) dispute whose settlement was entrusted to a Rapporteur's Committee led by Sir Austen Chamberlain.

⁴⁴Chapter VI deals with the role of Rapporteurs' Committees and those committees involved in disputes related to Minorities Questions.

CHAPTER IV

RAPPORTEURSHIP AND THE GREAT POWERS

This chapter analyzes the role of the Rapporteur in the League of Nations in the settlement of Great Power v. Lesser Power disputes. In the twenty-year history of the League of Nations, a dozen disputes involving the Great Powers were submitted to the League Council for settlement. The particular disputes were either between a Great Power and a Small Power, or between a Great Power and a Middle Power. There were no disputes in which a Great Power confronted another Great Power directly, except possibly in the Tunis-Moroccan Nationality Decrees (1922-23) dispute between France and Great Britain.¹

The analysis here is in terms of two broad categories: (1) disputes in which force was used by the Great Power against the Lesser Power; and (2) disputes in which no force was used by the Great Power. Implicit in this categorization is the belief that there was a close relationship between the cooperation and non-use of force by the Great Powers and the Council's relative successes in the peaceful settlement of international disputes, on the one hand, and the use of force and the failure of the

¹This dispute was, however, settled privately by the parties outside the machinery of the League, after the parties agreed to remove the dispute from the Council's agenda. The Question of Upper Silesia (to be dealt with later in this section, as well as in Chapter VI) between Germany and Poland came close to being a Great Power v. Great Power dispute after France and Great Britain took opposite sides. Despite that added complication on the dispute, the Great Powers were ultimately not the primary parties to the dispute.

League Council to effect satisfactory settlements of disputes brought to its attention, on the other.

Among the most important considerations in the choice of procedures for the settlement of disputes by the League Council were the attitudes and actions of the Great Powers. Depending on the extent or degree of importance a Great Power attached to a given dispute, the Council's action was affected correspondingly.

Specifically with regard to Rapporteurship, there is reason to believe that a decision of the Council to adopt the Rapporteur technique for the settlement of a particular dispute, was largely dependent on the cooperation of the Great Power with the Council.² Conversely, this suggests that the Rapporteur technique was not likely to be resorted to by the League Council if the Great Power either refused to cooperate with the League Council procedure on the dispute to which it (the Great Power) was party, or, if the Great Power thought that it was to its advantage to use military force against a Lesser Power.

The analyses of the four disputes in this chapter (see Chapter III, pp. 79-81) will be conducted in a systematic manner. That is, each of the disputes will be examined in terms of three broad categories:

(1) Preparation stage; (2) Action stage; and (3) Outcome. Basically, these three phases coincide with the sequence of events or stages in the attempted settlement of a dispute submitted to the League Council.

²Theoretically and potentially, the Rapporteur could be used in the settlement of any political dispute. Ideal solutions to such disputes resulted from mediated compromises for which the Rapporteur was the agent relied upon.

The actual breakdown of these steps followed by the Council shows that the Preparation stage consisted of the following: the initial submission of the dispute to the League Council; the convening of the League Council (usually) to an extraordinary session at which meeting the representatives of the disputing states were expected to deliver their opening statements; and, the first action of the Council which consisted of the determination of the appropriate procedure to be followed in the settlement of the dispute which, almost always, was likely to be the appointment of the Rapporteur for the dispute. The Action stage consisted of all the activities connected with the actual settlement process. With regard to Rapporteurship, that meant an assortment of individual initiatives and tactics by the Rapporteur to get the parties together for the purposes of direct negotiation, conciliation and striking some compromise. Also, within this stage, the Rapporteur was expected to keep the League Council abreast of his progress by the submission of reports which might or might not be debated by the League Council. In the final stage, the Outcome, the final reports and recommendations of the Rapporteur were considered by the Council. The formal action of the Council was a resolution of the Council pronouncing on its recommended settlement of the dispute, and the implementation of that resolution.

To facilitate better comprehension of the chapter, the substantive aspects of each of the analyses will be preceded by a short description of each dispute. Each analysis will, in turn, be followed by a summary statement including references to the other related disputes not studied in detail.

(1) Force and Non-Rapporteurship

The Corfu Incident (1923)³: (Great Power v. Middle Power).

I

On August 27, 1923, an Italian General, General Tellini, together with three other Italians and a Belgian, members of an International Demilitarization Commission, of which General Tellini was President, were murdered on the Greek side of the Albanian-Greek frontier. Italy reacted by handing Greece a twenty-four hour ultimatum with the following demands:

- (a) An unreserved official apology to be offered to the Italian Government at the Royal Legation at Athens through the supreme Military Authority of Greece.
- (b) A solemn memorial service for the victims of the massacre to be held in the Catholic Cathedral at Athens, and all the members of the Government to be present.
- (c) Honours to be paid to the Italian Flag, by the Greek Fleet in the port of the Piræus represented by a naval squadron which will visit the Piræus for this special purpose; these honours to consist of a salute of 21 guns fired by the Greek warships, which will hoist the Italian flag while firing the salutes.
- (d) A drastic enquiry to be carried out by the Greek authorities at the place of the massacre in the presence of the Royal Italian Military Attaché, Colonel Perrone, for whose safety the Greek Government will be responsible; the enquiry to be carried out within five days of the acceptance of these demands.
- (e) Capital punishment for all the authors of the crime.
- (f) An indemnity of 50 million Italian lire to be paid within five days of the presentation of this note.

³One of the best analyses of the Corfu Incident of 1923 is by James Barros, The Corfu Incident of 1923 (Princeton: Princeton University Press, 1965).

- (g) Military honours to be paid to the bodies of the victims at the moment when they are placed on board an Italian vessel at Preveza.

The Italian Government requested the Greek Government to reply without delay.⁴

Although Greece responded within the specified time limit, she declared that certain of the demands were unacceptable. Greece stated:

The Greek Government, in its reply, considers unjustified the Italian Government's accusation, which makes the Greek Government responsible for a serious offence against Italy.

The Greek Government is therefore unable to accept the demands contained in paragraphs 4, 5 and 6 of the Italian note verbale, which constitute an infringement on the sovereignty and an injury to the honour of Greece.⁵

⁴League of Nations, Document C.598.1923.VII (8.9.23): Circular to all Council members from the Secretary-General Transmitting Correspondence between Italy and Greece on Corfu. The ultimatum with seven demands is contained in the Document: Italian Legation in Athens No. 2330 (29.8.23). A summary of the seven demands are also found in League of Nations, Official Journal, November 1923, p. 1413, Annex 554, Appendix I.

⁵Rejected demands, which were:

- (d) A drastic enquiry to be carried out by the Greek Authorities at the place of the massacre in the presence of the Royal Italian Military Attaché, Colonel Perrone, for whose safety the Greek Government will be responsible; the enquiry to be carried out within five days of the acceptance of these demands.
- (e) Capital punishment for all the authors of the crime.
- (f) An indemnity of 50 million Italian lire to be paid within five days of the presentation of this note.

See ibid.

On September 1, 1923, Italy moved a squadron of her navy into Greek waters, bombarded the Greek Island of Corfu, captured it and then insisted on the absolute satisfaction of her demands.

II

It was under this Italian menace that the Greek Government decided to submit this crisis to the League Council for settlement on September 1, 1923.⁶ This was only one of a number of options open to the Greek Government. It could have chosen, instead, to capitulate unconditionally by acquiescing to all the demands of the ultimatum. For Greece, such a course would have been humiliating for a self-respecting Middle Power. It would also have meant accepting demand number (e) ("Capital punishment for all the authors of the crime") which would probably have been impossible of fulfilment. There was at this point in time no certainty that the "authors of the crime" were Greek nationals. Even if they had been Greek nationals, there was no way of knowing if they would be apprehended, as it was doubtful that they would still be in Greek territory.

On the other hand, the Greek Government could have ignored the ultimatum and got themselves and their people ready to take the consequences. That would have probably meant war, and there would be no way of knowing the outcome of such a struggle in the eastern Mediter-

⁶Ottawa, Canada: Public Archives Records Centre: File No. 265205. Also, League of Nations, Document No. C.577.M.225.1923 (September 1st, 1923): Appeal From The Greek Government Under Articles 12 and 15 of the Covenant.

anean area. One thing could not be ruled out, though—the possibility that, in the event Greece chose to resist Italy militarily, the crisis would escalate into a general war involving other powers. It seems inconceivable that the other Great Powers, especially Great Britain, would not intervene in such an eventuality. At least, to show that the other Great Powers were concerned about Italy's behaviour regarding the Corfu Incident, the matter was taken up seriously by the Conference of Ambassadors in Paris. Reference to the latter will be found in the analysis of the dispute below.

The first action of the Greek Government after it had determined that it would be unable to comply with all the demands of the Italian Government's ultimatum, was therefore to submit the dispute to the League Council on September 1, 1923 under Articles 12⁷ and 15 (paragraph 3)⁸ of the Covenant.

The President of the Council immediately called the Council to a public meeting—the fourth meeting of the Twenty-Sixth Session of the League Council.⁹ After making a brief announcement of the dispute

⁷"The members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case, under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute."

⁸"The Council shall endeavour to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of the settlement thereof as the Council may deem appropriate."

⁹The Twenty-Sixth Session of the League Council was held in Geneva from August 31st to September 29th, 1923. See, League of Nations, Document 27/30548/2764: Dispute between Italy and Greece (August 31 - September 29, 1923).

which the Greek Government had lodged, the President distributed to all the Council members all relevant documents pertaining to the dispute.¹⁰ That meeting was followed by two other meetings on the same day (the fifth and sixth) at which both the Greek and Italian representatives made their opening statements on the dispute.

The Greek representative, M. Politis, reiterated the statement contained in the official communication from his government to the Secretary-General of the League in which the sequence of events beginning with the assassination of all the Italian members of the Tellini Delimitation Commission, through the Italian ultimatum and bombardment of the island of Corfu, was recounted. The Greek representative appealed to the Council to take up the dispute because it was not an ordinary dispute: Greece was "confronted with a Great Power."¹¹

The statement by the Italian representative, Signor Salandra, amounted to a tactical manoeuvre to keep the dispute out of the jurisdiction of the League Council. After stating that the Italian Government had acted "to safeguard its honour," he took issue with the fact that the Greek representative had even dared to mention Article 16 of the Covenant. This is the Article which empowered the League Council to recommend sanctions against any state which violated the Covenant of the League. Salandra's reference to this seemingly obscure point is curious because, as he stated:

¹⁰Ibid., pp. 8 and 20.

¹¹Ibid., p. 2 or League of Nations, Official Journal, November 1923, p. 1277.

M. Politis has declared that the Greek Government does not intend to appeal to Article 16 of the Covenant.¹²

But, according to Salandra, the mere fact that Politis had "mentioned the Article" was sufficiently offensive that he was obliged "to invite the representative of Greece not to mention that Article." This particular comment by the Italian representative does suggest that Italy was concerned about her "honour" as a Great Power. To that extent, at least, the Greek Government as well as the League Council had to be made aware that no sanctions against Italy by the League Council could be contemplated, nor would be tolerated by Italy. More than that, however, it is quite possible that Italy may have been genuinely concerned and apprehensive about the possibility of sanctions being adopted against her by the League Council for violating the Covenant and, therefore, liable to the application of Article 16.

The Italian representative then requested the Council to adjourn the discussion on the dispute until he had received "instructions" from his government. As Salandra expressed it:

I cannot give any reply in regard to the facts of which M. Politis has mentioned, because I have no direct information from my government. It is not for me at present to dispute.¹³

¹²The actual reference to the Article by the Greek representative was as follows:

The Greek Government was accordingly inclined to profit by the doubt which exists as to the character of the acts committed (at Corfu) by the Italian Government in order not to take the initiative in asking the application of Article 16." Ibid., p. 1278.

¹³League of Nations Document 27/30548/2764: Dispute between Italy and Greece, op. cit.

It would appear that the Italian representative had come to the meetings of that day without any prepared statement on its dispute with Greece. Either Italy did not accept that a dispute existed between her and Greece, or she did not think that the League Council had the competence to handle the dispute. As the developments in the Council unfolded, the latter turned out to be true. At any rate, instead of making the initial statement to refute what M. Politis had said or to present an account of the events from the Italian point of view, the Italian representative chose to remain ~~noncommittal~~.

That effectively terminated the first action of the Council on the dispute: to listen to the opening statements of the parties to the dispute. In this particular case, the Council heard the Greek statement only, but not the Italian one.

The next step was for the Council to appoint a Rapporteur for the dispute. That step was not carried out. There was no official reason given for the failure of the Council to appoint a Rapporteur for the settlement of the dispute. Even the idea of a Rapporteur to handle the Greco-Italian dispute seems not to have been raised at any of the meetings. In fact, there was no formal procedure adopted by the Council for the settlement of the dispute. Enough doubts had been raised in the minds of Council members as to the competence of the Council to deal with the dispute. The result was that the Council meetings on the Corfu affair were largely bogged down by inconclusive debates due to a series of adjournments to give Salandra time to receive "instruc-

tions" from his government in Rome, and because it was at least debatable whether or not the Council of the League of Nations was, at that point, competent to deal with the dispute.

III

The League Council's competence was called into question because:

(1) the Tellini Commission (all of whose members had been assassinated) had been appointed by the Conference of Ambassadors in Paris; and
 (2) the latter body was at that time looking into the matter.¹⁴ Italy's obstructionist attitude and behaviour in the League Council was based on her conviction that the Corfu dispute was a responsibility of the Conference of Ambassadors and not the League Council. As Salandra argued, during a private meeting of the League Council on September 1st:

From official reports which have appeared in the newspapers, and which have been communicated to me, it appears that another body is dealing with the question, namely the Conference of Ambassadors . . . there are certain precedents which show that the Council of the League of Nations has always refrained from taking action in cases which are before the Conference of Ambassadors, which is an organ of the Supreme Council, and which has been instructed with the execution of the treaties.¹⁵

To the extent, of course, that the Tellini Delimitation Commission had been appointed by the Conference of Ambassadors, Salandra's

¹⁴ League Council was officially informed that the Conference of Ambassadors was considering the question by means of a telegram which was read during the tenth meeting of the Twenty-Sixth Session, on September 6, 1923.

¹⁵ League of Nations, Document 27/30548/2764, op. cit., p. 8.

statement was valid. Greece, in recognition of her responsibilities to the Conference of Ambassadors, asked that body to send a Commission of Inquiry to help in the investigation of the assassination.¹⁶ It was only after Italy's ultimatum, when it became clear to Greece that Italy was taking the law into its own hands,¹⁷ that Greece appealed to the League of Nations. Clearly, the League Council seemed to have a responsibility to intervene when Italy's actions were threatening international peace, and there was substantial agreement on that point in the League Council.¹⁸ There is no evidence that Italy's view had the support of any other member of the League Council.

On September 6, 1923, a telegram was read to the League Council from the Conference of Ambassadors announcing officially that it was looking into the matter in response to a Greek government request for the appointment of a Commission of Inquiry. That same day, League Council members strongly reaffirmed the Council's competence to deal with the Corfu Affair. Uruguay's Council representative, M. Güani, expressed the view that the "competence of the Council in international questions of this nature which may affect or do actually affect the peace of the world is unquestionable."¹⁹ Perhaps the strongest statement was made by Lord Robert Cecil of Great Britain on September 1st, 1923. He said:

¹⁶See Footnote 14 above.

¹⁷League of Nations, Documents 11/305562/30508 and 11/30532/30508: Bombardment of Corfu.

¹⁸League of Nations, 27/30548/2764, op. cit.,

¹⁹Ibid., p. 22.

The Conference of Ambassadors is merely a Council on which some of the governments represented around this table sit, and unless they have instructed their representatives here not to undertake the matter or deal with it—and as far as I am concerned I have personally received no such instructions—I cannot understand on what grounds we can abstain from dealing with it.²⁰

Robert Cecil even reminded the League Council of certain precedents, including a previous dispute between Serbia and Albania which the Council had considered and settled although the Conference of Ambassadors had been handling the matter. "I regard this," concluded Lord Cecil, "as plainly a matter with which we have to deal here."²¹

The Greek representative argued that by taking a unilateral action, Italy "had separated herself from the Conference of Ambassadors," and Greece concluded that "a separate conflict" had developed between her and Italy which was threatening international peace, and in which only Greece was aware of how serious this was—being "confronted with a Great Power," At the Conference of Ambassadors in Paris, Italy as a Great Power, would be expected to receive only sympathetic treatment. Greece considered that the League Council was not only the proper forum for this "separate conflict," but that a fairer settlement of the dispute was more likely there because their countries would be treated on an equal basis. M. Politis, the Greek representative, was strongly supported by Lord Robert Cecil who further observed:

²⁰ibid., p. 11.

²¹ibid., p. 13.

I cannot recognise, before the Council of the League, any distinction between Great Powers and small powers. They are all equally answerable to the obligations they have entered into by signing the Covenant. There is no difference in the sanctity of contractual obligation because it has been entered into by a powerful individual or a less powerful individual.²²

Salandra had argued all along that there was no "separate conflict" between Italy and Greece beyond the Tellini assassinations. No international peace had been threatened by Italy's action, he argued. All that Italy had done at Corfu was merely an "act of guarantee."²³ It was difficult for the other members of the Council to accept that line of reasoning by the Italian representative, however. The most eloquent statement in disagreement with Salandra's assertions was made by the British representative, Lord Robert Cecil:

... it seems to me very difficult to understand how the occupation of a portion of the territory of another state by armed force, accompanied, so we are told by our own representative, by a bombardment which killed 15 individuals and wounded others, can be regarded as a pacific measure. I feel great difficulty in understanding how that can be differentiated from an act of war.²⁴

IV

Quinones de Leon, representative of Spain, had suggested an 8-point formula for resolving the problem in conjunction with the Conference of Ambassadors. But Salandra had categorically refused to

²²Ibid., p. 10.

²³This was during the 9th meeting of the Twenty-Sixth Session of the League Council held on September 5, 1923.

²⁴League of Nations, Document 27/30548/2764, op. cit., p. 9.

accept that "the Council should enter into a discussion on the substance of the question." The League Council finally declared, in a communication to the Conference of Ambassadors "its intention of investigating, in conjunction with the Conference, the manner in which the inquiry should be carried out," and not the settlement of the "separate conflict."

Despite all the declarations reaffirming the competence of the League Council to deal with the dispute between Italy and Greece arising out of the Tellini murders, Italy had been successful in persuading the League Council to refrain from dealing with the substance of the dispute, and in keeping the dispute within the Conference of Ambassadors. The final outcome was not a mutually acceptable settlement of the dispute, but a dictated settlement which Italy had sought right from the beginning by its ultimatum to Greece.²⁵ Greece was forced to pay Italy the 50 million lire which Italy had demanded, and Greece virtually acquiesced to all the terms of the ultimatum, except the punishment of the murderers. The Council's inability to appoint a Rapporteur for the dispute,

²⁵This statement is not meant to downgrade the important role the League Council played in the Corfu Incident, for, as H.A.L. Fisher wrote: "There can be little doubt that if the League had not existed Greece would have been compelled to go to war and that further complications would have ensued." By that Fisher was probably referring to the face-saving function of the League. While Greece virtually acceded to all the terms of the ultimatum (as originally demanded by Italy), the same demands through the League Council had a less humiliating effect. See, the Fisher Papers, Box 25, Printed Articles: The Position of the League of Nations. There is hardly any doubt, however, that the use of force by Italy at Corfu had been so swift that the Council of the League of Nations had found itself unable to put into motion any of its procedures for peaceful settlement. In this dispute, for example, no Rapporteur had therefore been appointed to attempt to settle it.

who could have acted as a go-between and mediator, denied to the Council the opportunity of effecting a mutually acceptable compromise settlement to both parties, and instead, probably determined the one-sided nature of the outcome. In the same sense as above (i.e., in preventing the Council from following its usual procedure of dispute settlement, including the appointment of a Rapporteur) the Corfu Incident probably served as a precedent for such disputes as the Manchurian conflict and the Italo-Ethiopian war of 1935. This section may be appropriately concluded with brief comments on those disputes.

V

There were three other disputes involving the use of force by a Great Power against a Lesser Power,²⁶ which were considered by the League of Nations. These were: the Manchurian Conflict (1931-33) between China and Japan; the Abyssinian War (1935-36) between Italy and Ethiopia; and the Russo-Finnish War (1939). With regard to this study, it is revealing that these three disputes, just like the Corfu Incident, had no Rapporteurs appointed for their settlement. Like the Corfu Incident, the three other disputes show that the Great Powers involved

²⁶In each of these disputes the parties were a Great Power against a Small Power, unlike the Corfu incident which was a Great Power v. Middle Power dispute. As can be seen from Fisher's comments in note number 23 above, the latter dispute threatened a generalized war because of the possibility that Greece could choose to go to war, while in the former three disputes the outcomes could be predicted in the sense that the Small Power could not resist effectively. For all practical purposes, however, it made little difference to a Great Power whether its adversary was a Middle Power or a Small Power.

5

concentrated their efforts in preventing the League Council from giving any consideration to the disputes. However, the span of time separating the Corfu Incident and the others might have been a factor. These last occurred in the 1930s when the post-war Great Power solidarity had long evaporated and there was no longer a functioning Conference of Ambassadors in which the Great Powers could pressure each other, or even co-operate with the League Council, such as had happened in the Corfu Incident. Thus, Italy did eventually withdraw from Corfu and no war took place, while in the other disputes nothing stopped the Great Powers from getting their way. It is, however, significant that the four disputes in which force was used by the Great Powers, no Rapporteurs were ever appointed. This may suggest that the hostile attitudes of the Great Powers, and in particular, their determination to deny the League Council any mediatory role in each of the disputes, may have been responsible for that. It would be false, however, to conclude from this that the Rapporteurs were considered incapable of dealing with disputes involving violence and force.

For instance, the Demir Kapu Incident of 1925 between Greece and Bulgaria, and the Vilna Dispute (1921-23) between Poland and Lithuania, were two disputes in which force was used, but for which Rapporteurs were appointed who helped in the settlement of the disputes. (More will be said on these two disputes in Chapter V.) Perhaps the services of a Special Rapporteur in the League of Nations was conceived to be suitable for only those disputes involving the Lesser Powers. If or when the Great Powers were determined to achieve their ends by force, the

appointment of Rapporteurs for the disputes would have been interpreted by the Great Powers as a challenge to them. In any case, such a situation was unlikely to arise because no Rapporteurs were ever appointed against the wishes of any power, Great, Middle or Small. It would seem, therefore, that the non-use of Rapporteurs in these disputes reveals more about the non-cooperative attitudes of the Great Powers towards the peaceful settlement efforts of the League Council, than it tells about the failure of the Council in these matters or about the Rapporteur, in particular.

(2) Germany and Rapporteurship

Eupen and Malmedy Dispute (1920-21): (Great Power v. Small Power)

I

This dispute between Germany and Belgium was one of the earliest disputes ever handled by the Council of the League of Nations, and concerned certain differences between the parties in their interpretation of Article 34 of the Treaty of Versailles. That Article stated:²⁷

Germany renounces in favour of Belgium all rights and title over the territory comprising the whole of the Kreise of Eupen and Malmedy.

During the six months after coming into force of this Treaty, registers will be opened by the Belgian authorities at Eupen and Malmedy in which inhabitants of the above territory will be entitled to record in writing a desire to see the whole or part of it remain under German sovereignty.

²⁷Treaty of Versailles, Paris, June 28, 1919.

The result of this public expression of opinion will be communicated by the Belgian Government to the League of Nations, and Belgium undertakes to accept the decision of the League.

The general context within which action under Article 34 was to be executed were boundary changes between Germany and Belgium which were deemed necessary and had been determined by the Paris Peace Conference after the defeat of Germany in World War I. The substance of that determination was embodied in Article 27 of the Treaty of Versailles, which prescribed a new frontier between Germany and Belgium, but whose exact delimitation was to be the responsibility of a delimitation commission (Article 35 of the Treaty of Versailles).²⁸ The German districts of Eupen and Malmedy, with a population of 63,000 went to Belgium under the terms of the new stipulations, but the formal transfer was conditional upon the results of a plebiscite to be held in due course—an exercise which, it was expected, would determine the true wishes of the inhabitants.

Accordingly, Belgium opened registers in the towns of Eupen and Malmedy for the so-called "public expression of opinion" immediately after the coming into force of the Treaty of Versailles.²⁹ It was, however, left to Belgium to determine how long the registers were to

²⁸Ibid., Article 35 read: "A Commission of seven persons, five of whom will be appointed by the Principal Allied and Associated Powers, one by Germany and one by Belgium, will be set up fifteen days after the coming into force of the present Treaty to settle on the spot the new frontier line between Belgium and Germany, taking into account the economic factors and the means of communication."

²⁹January 10th, 1920, the date of the formal establishment of the League of Nations.

remain open, where they would be actually placed, and the exact time when the Belgian authorities would communicate to the League of Nations the results of that "public expression of opinion."

† In the period between the signing of the Treaty of Versailles, on June 28, 1919, and the appointment of the first Rapporteur for the Eupen and Malmedy dispute by the League Council, in May 1920, several significant developments relating to the dispute occurred. Specifically, the German Delegation to the Peace Conference, headed by Baron von Lersner, as well as the German Government itself directly, transmitted to both the President of the Paris Peace Conference, and later, to the League of Nations, their concern and displeasure with the manner in which Article 34 of the Treaty of Versailles was being executed by the Belgian authorities. Not only was there a difference between the two countries in their interpretation of Article 34, but, the Germans alleged that Belgium had acted, and was acting, in apparent violation of the spirit and substance of the Article.

They cited, as an example, the fact that the registers for the "public expression of opinion" were placed only in the main centres of Eupen and Malmedy, and none in the rural areas. This was seen as creating transportation difficulties for the rural people, especially since the registers were open only from 9 a.m. to 12 noon per day. It was further alleged by the German authorities that the Belgian authorities had expelled German inhabitants from Eupen and Malmedy

by using the pretext that those people had not been in residence on or before August 1st, 1914.³⁰ This action was based on a Belgian decree of January 26th, 1920.³¹ Several other German communications protested about a number of alleged incidents which amounted to outright blackmail against German residents in the Eupen and Malmedy area by Belgian authorities, presumably to discourage them from expressing their opinions in the plebiscite. In short, Germany was pleading for a fair plebiscite and for a Commission to be set up to examine a number of incidents which had been reported to the League of Nations, in order, to ensure that the plebiscite would be carried out fairly.

Responses to the German protests and allegations were in the form of assurances,³² from the President of the Paris Peace Conference, M. Clemenceau, that Belgium was bound to carry out her obligations under the Treaty of Versailles.

³⁰This was the substance of J.V. Hassel's (German Chargé d'Affaires in Rome) communication to the Secretary-General of the League of Nations of May 14th, 1920.

³¹Frances Kellor and Antonia Hatvay, Security Against War, Vol. 1 (New York: The Macmillan Company, 1924), p. 316. The decree declared that: (1) men and women of German nationality over 21 and who had been living in Eupen and Malmedy since August 1st, 1914 had the right to register, and (2) that the registers would be open every working day from 9 a.m. to 12:noon for 6 months.

³²League of Nations, Official Journal, June, 1920, Annex 3. There were repeated assurances from M. Clemenceau that the plebiscite in Eupen and Malmedy had been placed under the protection of the League of Nations, and that the League's decision would follow that submission (results of the plebiscite) by Belgium.

II

Although the German Government had been in direct and continuous communication with the President of the Paris Peace Conference since July 16th, 1919, it was not until April 20th, 1920, that the Secretary-General of the League of Nations was formally notified of the dispute by Germany. This was by way of a letter addressed by the German Chargé d'Affaires in London, Mr. Sthamer, to the Secretary-General, with identical notes to Great Britain, France, Italy, Japan and Belgium.³³

The letter expressed concern about the manner in which the "public expression of opinion" was being carried out by the Belgian Government. Attached to this letter of April 20th, 1920, were a number of documents including a communication referring to the March 27th, 1920 decision of the Germano-Belgian Delimitation Commission which adjusted the boundary of the two countries in favour of Belgium.³⁴

On May 7th and 8th, 1920, the Belgian Minister of Foreign Affairs, Paul Hymans, submitted to the Secretary-General of the League comprehensive answers to all the German allegations.³⁵ In refuting the German

³³A further communication from the German Chargé d'Affaires in London to the Secretary-General of the League was on May 6th, 1920. This was followed on May 14th, 1920, by yet another letter from the German Chargé d'Affaires in Rome to the Secretary-General of the League, in which he specifically complained about the expulsion of German persons from Eupen and Malmedy. These German letters also contained attachments of similar correspondence (including previous correspondence) with the President of the Paris Peace Conference.

³⁴The adjustment of the border, which was determined by the award of the Raeren-Kalterherberg railway line to Belgium, ceded German territory with 2000 Germans of the village of Mutzenich and the hamlet of Rötgen. This came under Article 27 of the Treaty of Versailles.

³⁵League of Nations, Official Journal, June 1920, pp. 176-190.

protests, Paul Hymans maintained that the Belgian Government's implementation of the requirements of Article 34 of the Treaty of Versailles was in accordance with the spirit and letter of the Article. For instance, the provision of only two centres for the "public expression of opinion" was in scrupulous adherence to the stipulations in the Article, although it hardly touched the main German argument that only two urban centres created hardships for people in the rural areas. As for the award of the Raeren-Kalterherberg railway line to Belgium, that was a matter quite outside the jurisdiction of the Belgium Government. He went on:

I venture to point out that it is a decision of the Germano-Belgian Delimitation Commission against which the allegations contained in the German Note are made.³⁶

League Council procedures and custom required that after the formal submission of a dispute, the League Council was convened, usually in an extraordinary session, to which the representatives of the parties to the disputes were allowed to sit. At this first special sitting of the Council both parties gave their statements to the Council. This was often complementary to, and/or an elaboration of, the formal written documents. In the case of the Eupen and Malmedy dispute, the President of the Council did not call for the sitting of the Council. Instead, the Secretary-General circulated to all the Council members the letter from the Belgian Minister of Foreign Affairs of May 8th.

³⁶Ibid., p. 176.

There are several possible explanations why the League Council did not meet for the Eupen and Malmedy dispute. The first is that the Council was, at that time, in recess. Rather than call a meeting of the Council, the President of the Council determined that circulating the letters and documents pertaining to the dispute to all the Council members, would be sufficient. This explanation is, however, not convincing enough because written documents always left room for further amplification orally. In any case, even if the Council was in recess, it could have been summoned to attend an extraordinary session. This may suggest that the Eupen and Malmedy dispute was not considered serious enough for the latter. The second explanation might be that the President of the Council decided that the dispute did not endanger international peace, and therefore there was no urgency in requiring a sitting of the Council in emergency session. Even though Germany was a Great Power, especially in relation to Belgium, she had recently been defeated in the First World War. Despite the bitter tone of Germany's protests on Eupen and Malmedy, her hands were really tied, and at that stage the chances of her using force against Belgium were extremely remote. Germany's defeat had temporarily rendered her toothless even in the face of provocation and humiliation by so small a power as Belgium. It is difficult to imagine a situation in which a Great Power, in the League era, could have tolerated so much dragging of feet by the League of Nations as Germany had to endure. One suspects that the League Council was not in the mood to dignify Germany by offering her a public hearing on the dispute.

The third, and probably the most important explanation for not holding a meeting to hear the opening statements of the parties, was that the League Council had no authority to act on the dispute until after Belgium had submitted her report of the results of the "public expression of opinion." This was expressed in unambiguous terms in the Article (Article 34 of the Treaty of Versailles):

The results of this public expression of opinion will be communicated by the Belgian Government to the League of Nations.

The Article is silent on what the League could or could not do before that act by the Belgian Government, probably implying that the League had no legal authority to act on the dispute until the results of the plebiscite were communicated to the League. Whatever was the true explanation for the League Council's failure to meet—and this writer suspects that it was probably a combination of all three—the League Council never did meet to hear the representatives of Belgium and Germany make oral representations of their cases.

In the meantime, however, the President of the Council appointed a Rapporteur for the dispute, a function that was within his power and jurisdiction. He was the Japanese representative to the Council, M. M. K. Matsui.

No records exist—at least, none have been uncovered by this writer—that would shed some light as to why the President of the League Council asked the Japanese representative, rather than someone else, to take up that particular assignment. However, the arrangement seemed to be analogous to a long established diplomatic practice

of mediatory functions which required the services of a state, or its representative, which had no apparent interest in a particular dispute.³⁷ Although Japan was closely identified with the other Great Powers that had recently defeated Germany, she was essentially an Asian power, whose interests were centered in the Far-East. The chances of her representative becoming partial, either way, in the dispute between Germany and Belgium, were remote. It was for this reason that the Japanese representative was seen as likely to be acceptable to both Germany and Belgium.

III

In May 1920, M.K. Matsui assumed his function of Rapporteur for the Eupen and Malmedy dispute. It may be recalled that this period coincided with the Fifth Regular Session of the League Council in Rome.³⁸ The Rules of Procedure of the League Council were due for further discussion, formulation, and finalization at this particular Council Session. Thus, in his handling of the Eupen and Malmedy dispute, Matsui had few guidelines to follow, if any. This became apparent in the handling of the dispute. The only tangible thing that the Rapporteur did was to produce a Report which was presented to the League Council on May 15th, 1920.³⁹ The purpose of this Council meeting was to receive the first Report of the Rapporteur on the dispute. It was not to discuss the merits

³⁷James Brown Scott (ed.), Reports of the Hague Conferences of 1899 and 1907 (Oxford: At the Clarendon Press, 1917).

³⁸League of Nations, Minutes of the Council, Fifth Session of the Council of the League of Nations (14 - 19 May, 1920).

³⁹League of Nations, Official Journal, June 1920, pp. 119-121.

of the differing views on the dispute.

After referring to previous communications between the German and Belgian authorities, the Rapporteur offered his own interpretation of Article 34. According to Matsui,

The wording of the said Article 34 appears to entrust the arrangements for public expression of opinion entirely to the Belgian authorities. It is provided that the registers in which the inhabitants, during the six months after the coming into force of the Treaty of Peace, are entitled to record their desire to see the whole or part of the territory in question remain under German sovereignty, shall be opened by the Belgian authorities, and that the results of this public expression of opinion shall be communicated by the Belgian Government to the League of Nations. These results cannot possibly be communicated to the League until after the expiration of six months after the coming into force of the Treaty of Peace, i.e., six months after January, 1920. Under Article 34, Belgium undertakes to accept the decision of the League. The League, therefore, will at that time be fully qualified to take cognisance of the conditions under which the plebiscite was held, and, consequently, to take any necessary measures. But the Treaty of Peace does not give the League any right to intervene previous to the communication which the Belgian Government shall make under the Treaty, of the public expression of opinion.⁴⁰

In the Rapporteur's view there was nothing that the Council of the League of Nations could do until after the results of the plebiscite had been transmitted to the League of Nations by the Belgian Government. Accordingly, as a result of the Matsui Report of May 15, 1920, the League Council took no action on the German complaints and protests. In fact, it does not appear that the Rapporteur ever tried to

⁴⁰Ibid., p. 120. See also League of Nations, Document 40/46916/46916: Memorandum of certain Treaty and other Provisions concerning the Competence and Procedure of the Council of the League of Nations, p. 2.

mediate directly between the parties.

Between January 10, 1920 and July 10, 1920 registers for the "public expression of opinion" had been opened in Eupen and Malmedy. During that period, those residents, who preferred to see Germany retain sovereignty over the two districts, came to the centres of Eupen and Malmedy to have that preference recorded. On August 17, 1920 the results of the plebiscite were presented to the League Council by the Belgian Government.

The actual interpretation of the results of the plebiscite became the responsibility of another Rapporteur, the Brazilian representative, Gastao da Cunha. In a long Report to the League Council,⁴¹ Gastao da Cunha stated that only 271 people had registered their desire to have the districts of Eupen and Malmedy remain under German sovereignty.⁴² This was a "minute proportion" of the total population of 63,000. Even if the 4,734 voters who had taken up residence in the two districts after August 1, 1914 were to be added to the 271, giving a new total of 5,005 voters, that would not have made any meaningful difference to the results. In terms of the results of the plebiscite, therefore, the League Council had no choice but to institute the "definite transfer of the districts of Eupen and Malmedy under the sovereignty of Belgium." The determination had been legal and final.

⁴¹League of Nations, Official Journal, October 1920, pp. 404-409: "Report by the Brazilian Representative, M. Gastao da Cunha, and adopted by the Council of the League of Nations."

⁴²Ibid., p. 407.

As to previous German allegations and complaints against Belgium, the Rapporteur (Gastao da Cunha of Brazil) observed that they had been largely "vague and indeterminate." He went on:

Like all representations made to the Secretariat, and like those which were recently sent to the Rapporteur, who forwarded them to the Secretariat, almost all these protests are anonymous.⁴³

He stated that notwithstanding all the German representations, he was "sure" that in all that the Belgian Government had done with regard to the Eupen and Malmedy affair, it had been "actuated by the desire to respect the letter and spirit of the Treaty of Versailles, with care and with regard for the legal implications." In this regard, he cited as an example the point that the Belgian Government was "ready to include other categories of residents (for the purposes of the plebiscite), for example, women." Or, for instance, the fact that the Belgian Government, unlike the German authorities, had accompanied its accusations (of Germany) with "written and definite documents."

IV

Following the Report, not only did the League Council accept the Rapporteur's interpretations of the facts of the dispute in favour of Belgium, but, as a final act in the dispute, unanimously passed a Resolution which embodied all the recommendations of the Rapporteur.⁴⁴

⁴³Ibid., p. 408.

⁴⁴Ibid., pp. 408-409.

It should be noted, however, that the procedures which both Rapporteurs followed, did not include direct mediation between the parties, a technique which Rapporteurs, in later years, grew to rely upon. Neither did M. K. Matsui nor Gastao da Cunha, as far as can be ascertained, attempt to bring the parties together either for formal or informal conversations about the dispute. The reports and recommendations of the two Rapporteurs, and the subsequent decisions of the League Council on the dispute, seem to have been based solely on the Rapporteurs' studies and their judgements of the series of written representations by the two states, as well as the Rapporteurs' interpretations of Article 34 and Article 35 of the Treaty of Versailles. This is clearly confirmed by the Council's direct involvement in the dispute.

The records show that the Council had a number of meetings between May and September, 1920, in which the Eupen and Malmedy dispute came up.⁴⁵ In none of these meetings did Germany and Belgium present their cases verbally to the League Council. All records show that such meetings were occasions for the two Rapporteurs to present their Reports on the dispute, after which the League Council noted and, in each case, accepted, the recommendations of the Rapporteur. Following M. K. Matsui's and Gastao da Cunha's Reports no discussions ensued. The League Council accepted without question Matsui's recommendation that the League Council had no right to intervene in the Eupen

⁴⁵ Ibid.

and Malmedy dispute except after the official submission of the results of the "public expression of opinion"; and the Council also unanimously passed a Resolution which was identical to Gastao da Cunha's suggestion that Belgium had performed her duties and responsibilities clearly according to the "letter and spirit of the Treaty of Versailles," and that, therefore, the result of the plebiscite formally and legally transferred the sovereignty of the area in question to Belgium.

Immediately following World War I, Germany was still a Great Power, in spite of having been weakened by, and defeated in, the war. She was not a member of the League of Nations, although she was subject and answerable to the League Council with regard to the implementation of certain clauses of the Treaty of Versailles. The fact of non-membership in the League of Nations would have made little difference in case of disputes involving her with a member of the League of Nations, as Article 17 of the Covenant accorded equal treatment and fairness to non-members for the purposes of a dispute. However, in her weakened state, Germany must have found it more difficult to have her voice heard in the League Council with respect to those disputes to which she was party than the other Great Powers. The explanation for that may be related to the fact that the same Great Powers which had defeated her in the last war constituted the core of the League Council.

Frances Kellor's view that the League of Nations was, in the Eupen and Malmedy dispute, behaving as "an autocratic international

organization on the basis of democratic national governments,"⁴⁶ especially with regard to the choice of the Rapporteurs for the dispute and the procedures they followed, seems rather apt.

The outcome of the Eupen and Malmedy dispute, which endorsed Belgium's position, was not really unexpected. The wording of Article 34 of the Treaty of Versailles was not explicit about what the League Council could or could not do before the communication by Belgium of the results of the "public expression of opinion." Technically, although the League Council had the power to accept or reject the communication of the Belgian Government, the absence of any supervisory machinery during the "public expression of opinion" gave the Belgian Government a completely free hand in that exercise. In effect, the League Council was placed in a position whereby it had to accept the veracity of the communication by the Belgian Government concerning the results of the plebiscite, or if not, the Council would have required independent observers whose reports might have provided a basis for rejecting the results of the plebiscite. In the absence of independent observers, the League Council had either to accept the Belgian Government's communication, or to take as authentic the German complaints. If the League Council were to have taken the latter course of action (a highly unlikely event given the international political situation then), the problem of verification, especially after the fact, would have proved enormous, if not impossible. The overall impression that one is left with after con-

⁴⁶ Kellor and Hatvay, op. cit., p. 323.

sidering all aspects of the dispute, is that Rapporteurship was used in the dispute to give the appearance of impartiality in a situation and dispute in which no genuinely impartial procedures were followed.

In the Eupen and Malmedy dispute, Rapporteurship was restricted to the examination of the relevant documents by the two Rapporteurs; the preparation, and presentation of, reports to the League Council; and the making of recommendations to the League Council on the best way to settle the dispute. No force had been used before or during the course of the attempted settlement. In that sense, the dispute was peaceful. Rather than resort to mediation and conciliation in order to effect some compromise settlement between the parties, or at least, to order an inquiry to ascertain the facts of the German allegations, the Rapporteurs chose to stick to a legal interpretation of the parties' responsibilities. Aware that the Principal Allied and Associated Powers expected Germany to abide by the terms of the Treaty of Versailles, the League Council had not much of a choice either. The latter's responsibilities with regard to this and other similar issues emanating from the Versailles Treaty, were limited to guaranteeing the fulfilment of the terms of that Treaty by the parties.

V

Within this category of disputes involving Germany and the Lesser Powers, are two other disputes: (1) the Dismissal of Memel Official (1932) and the Question of Upper Silesia (1921-23).⁴⁷ The dispute between

⁴⁷The main source of information for the Question of Upper Silesia is the League of Nations Document 27/15213/2764: "Minutes of the Extraordinary Session of the Council of the League of Nations from August 29th, 1931, to consider the Question of Upper Silesia."

Germany and Poland was first referred to the League Council by the Supreme Council under the provisions of Article 11, paragraph 2, of the Covenant on August 12, 1921. That paragraph states:

It is also declared to be a friendly right of each member of the League to bring to the attention of the Assembly or the Council any circumstance whatever affecting international peace or the good understanding between nations upon which peace depends.

The existence of a dispute between Poland and Germany over Upper Silesia had first been voiced by Count Brockdorff-Rantzau, leader of the German Delegation to the Peace Conference, on May 29th, 1919.⁴⁸ The German Delegation had, in their statement entitled "Observations of the German Delegation with regard to the peace terms," objected to the proposed allotment of the area of Upper Silesia to Poland. The proposal had been contained in a report by a Committee on Upper Silesia which the Supreme Council had adopted on March 19th, 1919. The German Delegation's protest maintained that the allotment to Poland of Upper Silesia was not justified—

(a) because there has been no connection between Upper Silesia and the Kingdom of Poland since 1163; Poland, therefore, could not lay legal claim to the country;

(b) because Upper Silesia was not inhabited by a population which was indisputedly Polish;

(c) because the development of the country was due entirely to Germans, who could not, from an economic point of view, do without the territory, whereas Poland would have no need of it; without

⁴⁸Ibid., p. 12.

Upper Silesia, Germany could not fulfil its obligations and the peace of the world would be in danger.⁴⁹

As a result of the German protest, the Supreme Council "decided to modify the original peace terms and to organize a plebiscite for Upper Silesia," both tasks being assigned to "The Committee on the Eastern Frontiers of Germany" to accomplish. The final revised terms of peace to Germany, including the provision for a plebiscite in Upper Silesia, were embodied in Article 88 and Annex, Article 90 and Article 91 of the Treaty of Versailles.

The plebiscite on Upper Silesia was held on March 20th, 1921. It would appear that the results supported neither party conclusively,⁵⁰ and as a result an explosive situation developed between Germany and Poland, which was not helped by a deadlock created in the Supreme Council on the issue between Great Britain and Italy on one side, and France on the other.⁵¹ It was under these circumstances that the Supreme Council decided, on August 12, 1921, to refer the matter to the League Council, the latter in turn agreeing to take up the matter a week later (August 19, 1921).

⁴⁹ Ibid.

⁵⁰ Ibid., p. 14. Western Upper Silesia showed a 90% pro-German vote and Southern Upper Silesia had a 70% pro-Polish vote. The rest of the Upper Silesia vote showed a slight German majority. See Lloyd George Papers, F/9/3/49 (June 2, 1921). The actual figures in absolute terms were 703,649 for Germany and 471,709 for Poland.

⁵¹ Great Britain and Italy supported Germany while France supported Poland.

Unlike the preliminary procedures which the League Council usually followed, the disputing states, Poland and Germany, were not asked to present their cases by means of public statements in the Council. When the Supreme Council requested the League Council to take up the matter of Upper Silesia, at the same time it submitted documents relating to the dispute. The League Council was then requested to reach certain conclusions as to a possible settlement of the dispute and to recommend the same to the Supreme Council.

The League Council met on August 29th, 1921, and appointed a Rapporteur to study the documents submitted by the Supreme Council on Upper Silesia and to present a report of his findings to the Council. The Japanese representative Viscount Kikujiro Ishii was appointed as Rapporteur. Of the four members of the Supreme Council (composed of the four Great Powers in the League) Japan was the only state which had not taken sides in the Question of Upper Silesia. Because Great Britain, Italy and France had taken sides,⁵² the dispute had become in effect a dispute between the Great Powers. Therefore, Japan alone, of the four Great Powers, was the only state whose representative was likely to be neutral and impartial on the issue, and therefore most likely to be acceptable to Germany. Moreover, because Japan was a Great Power herself, her representative as Rapporteur would probably command the respect of the other Great Powers.

⁵²Ibid.

Viscount Ishii's function as Rapporteur in the Upper Silesia issue was restricted to preparing the report, based on documents supplied by the Supreme Council and to making recommendations for the settlement of the dispute. His report and a draft resolution concerning the dispute were presented to the League Council on the same day as his appointment suggesting, obviously, that he had been warned earlier of his impending appointment and thus had to consider the matter even before his official appointment. This is evident from a statement by Lord Balfour of Great Britain during the first private meeting of the League Council on the issue. Lord Balfour is reported to have stated, among other things, that the "Representative of Japan had made an admirable preliminary study of the question on behalf of the Council."⁵³ Two days later, on September 1, 1921, during the second (private) meeting of the League Council, the Rapporteur's report and draft resolution on Upper Silesia were adopted. The most important recommendation of the Rapporteur was the appointment of a Committee of Rapporteurs which was to be composed of the "Representatives of Belgium, Brazil, China and Spain, states which have so far taken no part in the preliminary investigations, nor in the discussions to which these investigations have given rise."⁵⁴ Although the Committee of Rapporteurs was not mentioned in the Rapporteur's report and draft resolution, it has been referred to frequently in other contexts as the "Rapporteurs' Com-

⁵³ League of Nations, Document 27/15213/2764, op. cit., p. 3.

⁵⁴ Ibid., Annex 231, pp. 8-10.

mittee," or the "Committee of Rapporteurs."⁵⁵

Viscount Kikujiro Ishii of Japan was the first Rapporteur for the Upper Silesia dispute. At the termination of the specific task for which he had been appointed—to report on documents which the Supreme Council had supplied to the League Council—he was not replaced by another man as Rapporteur, but by a committee of the Council, for the next phase of the dispute. Viscount Ishii had indicated at the time when he was originally given the assignment that, although he was accepting the appointment, he did so reluctantly and would not wish to continue in that capacity after reporting on the first phase of the dispute.⁵⁶ As Ishii was also Acting President of the League Council, he might have found it difficult to occupy both positions. There was also the very real possibility that "no member of the Council could be expected to accept the task of acting as Rapporteur for so explosive a situation." What happened was that, instead of a Rapporteur, the League Council "hit upon the plan of a Rapporteurs' Committee." (See Chapter VI, Rapporteurs' Committees.)

The prelude to the Dismissal of Memel Official (1932) dispute was the renunciation by Germany of the Territory of Memel in favour of the Principal Allied and Associated Powers after it (the territory) had

⁵⁵Generally, a Committee appointed by a Rapporteur or over which a Rapporteur presided was called a "Rapporteurs' Committee" or a "Committee of Rapporteurs."

⁵⁶During the second (private) meeting of the Extraordinary Session held on Thursday, September 1, 1921.

been taken away from Germany by the victorious powers during the First World War. The latter powers, in turn, assigned that territory to Lithuania on February 2, 1923. Slightly over a year later, as a result of negotiations and decisions in which Germany did not participate, the territory was transferred to Lithuanian sovereignty, although it was to continue to enjoy a certain degree of autonomy.⁵⁷

Between 1924 and 1932, Germany frequently complained to the League Council of Lithuanian interference in Memel's autonomy. Early in 1927, 1930 and 1931 Germany transmitted petitions of infractions of the Memel Convention by Lithuania. In each of these instances, however, the Lithuanian Government seems to have been able to satisfy the Council without it (the Council) having to take up the matter formally.

However, the matter came to a head in 1932⁵⁸ when the Lithuanian Governor of the Memel Territory dismissed the President of the Memel Directorate (a German, Herr Bottcher) for making an unauthorized trip to Berlin. Germany brought the matter to the attention of the League Council on February 8th, 1932 under Article 17 of the May 8th, 1924 Memel Convention. (The above Article gave every member of the League Council the right to bring any infraction of the Memel Convention to the

⁵⁷This autonomy was the result of negotiations which had been opened earlier between the Commission on the Question of Memel (provided under the terms of the Peace Treaty with Germany) and Lithuania, the League Council and the Polish Delegation. These negotiations had culminated in the signing of the Memel Convention by the above powers, as well as France, Great Britain, Italy and Japan.

⁵⁸Denis P. Myers, Handbook of the League of Nations (New York: World Peace Foundations, 1935), pp. 346-347.

attention of the organ.) Both parties were heard by the Council on February 13th and 14th, 1932, after which the Council appointed Mr. Erik Colban of Norway as the Rapporteur. After a series of private, but separate, conversations with the parties, Mr. Erik Colban presented a Report to the Council which revealed that not only was there a difference in the positions of the two states, but that there was general uncertainty about the circumstances of the dismissal of the Memel official. In view of the irreconcilable positions of the parties and, in particular, because of Lithuania's legal stand that no dispute really existed,⁵⁹ the Rapporteur recommended the submission of the dispute to the International Court for an Advisory Opinion. That was done on April 11, 1932, despite Lithuania's objections.⁶⁰ Exactly four months later, on August 11, 1932, the Court's Advisory Opinion upheld Lithuania's intervention regarding the dismissal of the President of the Memel Directorate. That formally ended the dispute.

As in the Eupen and Malmedy dispute, in the Memel dispute Germany was the Great Power disputing with a Small Power, Lithuania. Germany did not use, and probably ~~could~~ not have used, force against Lithuania because not only had she renounced her sovereignty over Memel in favour of the Principal Allied and Associated Powers, but the Great

⁵⁹The Principal Allied and Associated Powers asked the Court—the League Council had no power to do so without the concurrence of both parties to the dispute. Lithuania had not concurred.

⁶⁰Permanent Court of International Justice, Series A/B, No. 47, p. 49.

Powers had guaranteed the protection of Memel against any possible German aggression by countersigning the Memel Convention of 1924. Thus, the fact that Lithuania was a Small Power was not an immediate factor in the situation.

Unlike the Eupen and Malmedy dispute, however, both parties in the Memel dispute did appear before the Council and were heard as they gave their opening statements. This difference may have been due to the fact that by 1932 the League Council had had ten years of experimentation with the Rapporteur technique while during the former dispute (~~Eupen~~ and Malmedy) the rules of procedure of the Council were still in the process of formulation. Also, unlike in the Eupen and Malmedy and Upper Silesia disputes, the Rapporteur in the Memel dispute actually tried to mediate between the parties, but the irreconcilability of their views prevented a mutually acceptable settlement, thus necessitating an Advisory Opinion of the Court.⁶¹ Perhaps the one explanatory factor for the difference between the Eupen and Malmedy and Upper Silesia disputes, on the one hand, and Memel on the other, is that Germany was, by 1932, a member of the League Council and an increasingly forceful European state. It no longer seemed possible to ignore her.

⁶¹The Advisory Opinion given by the Court was in two phases. First, because Lithuania had objected to the Rapporteur's recommendation for an Advisory Opinion on the grounds that the settlement of the dispute was outside the jurisdiction of the League of Nations, the Court pronounced on June 24th, 1932, on the Council's competence. This, in effect, upheld Germany's right to raise the matter in the Council. Secondly, on August 11th, 1932, the Court pronounced on the merit of the case in favour of Lithuania.

In the Eupen and Malmedy dispute the Council made its final decision on the strength of the Rapporteur's Report and recommendations, and in the Upper Silesia dispute the Rapporteur recommended the appointment of a Committee of Four (or a Committee of Rapporteurs) for a further investigation before the Council could be in a position to recommend a settlement to the Conference of Ambassadors.⁶²

(3) Other Great Powers and Rapporteurship

The Sanjak of Alexandretta and Antioch (1936-37): (Great Power v. Middle Power)

I

This was a dispute between France (a Great Power) and Turkey (a Middle Power). When, after World War I, France became a mandatory power over Syria and Lebanon in the Middle East, she simultaneously acquired and accepted mandatory responsibility over the Sanjak of Alexandretta and Antioch. This was a relatively small area in north-west Syria whose population then was said to be 220, 600 of whom 100, 000 were Turkish.⁶³ The original terms of the mandate over the territory—whether the Sanjak was to be developed as part of Syria or as a separate entity—seem not to have been spelled out, at least, in so far as Turkey was concerned. At the time of transfer, Turkey had understood that the

⁶²There will be more on Committees of Rapporteurs in Chapter VI.

⁶³The rest were "persons of very varied races." See, League of Nations, Official Journal, January 1937, p. 25. See, also, Francis P. Walters, A History of the League of Nations (London: Oxford University Press, 1952), p. 742.

Sanjak would be treated by France as a separate unit, to enjoy the same status as Syria and Lebanon. After the Sanjak had been "conditionally ceded [to France] by Turkey in virtue of the treaties of 1921 and 1923," the separate identity of the area seems to have been guaranteed by the passing of the Statute and Fundamental Law of the Sanjak of Alexandretta and Antioch. In 1936, however, it became clear that France was in the process of granting complete political autonomy to Lebanon and Syria, and not to the Sanjak—the latter being treated as an integral part of Syria—and the Turkish Government brought the matter to the attention of the League of Nations.⁶⁴

II

The Turkish authorities formally submitted the dispute under Article 11 of the Covenant in a telegram dated December 8th, 1936.⁶⁵ As the League Council was already in an Extraordinary Session over the Spanish Question,⁶⁶ an agreement was reached within the Council to include the Sanjak question in the agenda. The representatives of both parties were invited to open the session by giving their opening statements.

⁶⁴The Franco-Syrian Treaty of September 9th, 1936 was the trigger which prompted Turkey to bring the matter before the League Council. See, League of Nations, Official Journal, January 1937, p. 26.

⁶⁵League of Nations, ibid., Annex 1629 (C. 535. M. 345. 1936): Telegram, Dated December 8th, 1936, From the Minister For Foreign Affairs of the Turkish Republic to the Secretary-General, p. 36.

⁶⁶Spanish Civil War of 1936-39.

The first opening statement was given by the Turkish representative, Mr. Rustus Aras. This was during the fifth meeting of the Ninety-fifth Session of the Council. Rustus Aras stated from the outset that rather than "go into the substance of the dispute," he would only confine his statement to explaining "the legal and political positions of the different parties to the case."⁶⁷

It had been the clear understanding of the Turkish Government, Rustus Aras argued, that the Supreme Council of the Allies had conferred upon France a mandate only over Syria⁶⁸—a "geographical expression" which excluded the Sanjak. In the mandate which was drawn up in 1922 there was "no mention of the Sanjak in the mandate." In entering into both the Ankara Agreement of 1921 and the Treaty of Lausanne of 1923, it was not Turkey's intention —

... of admitting the existence of a Syrian political entity on behalf of which France would proceed to take possession of a Turkish community in order at future date to place it finally under the yoke of a non-Turkish community.⁶⁹

The Turkish position was that France had the duty to grant to the Sanjak the same political advancement—that is, independence—as she was in the process of granting to Syria and Lebanon.

⁶⁷ League of Nations, Official Journal, January 1937, p. 22.

⁶⁸ Ibid. In the San Remo Agreement (April 25th, 1920) all those communities which had been detached from the Ottoman Empire were assigned to France and Great Britain.

⁶⁹ League of Nations, Official Journal, January 1937, p. 23.

The French Government was represented by M. Vienot who, instead of presenting his opening statement right away, proposed that a Rapporteur be appointed forthwith. He felt that the Council members, having heard the Turkish representative and having examined the documents on the dispute, required only a preliminary report by the Rapporteur before the Council could enter into the substance of the dispute. He, however, reserved the right to answer the Turkish statement the following day, which he did. With the unanimous agreement of the Council and the parties, the President of the Council asked Mr. Richard Sandler of Sweden to be the Rapporteur. The unanimous choice of Mr. Sandler was a reflection of the general confidence the Council held for his person, his skill and impartiality.⁷⁰

Before the Rapporteur could give his report, however, Vienot gave his statement in answer to the Turkish Government's allegations. Basically, M. Vienot refuted what Rustus Aras had said, arguing that "the Sanjak had no special claim to independence apart from the Syrian community to which it belonged."⁷¹ He further stressed that—

... the constitution of the Sanjak as an independent state is not, however, provided for in the Ankara Agreement⁷²

⁷⁰This was, in part, based on the high esteem with which the League of Nations held another Swedish Diplomat, Karl Hjalmar Branting. The latter had acted as Rapporteur before successfully and, generally, had served the League well.

⁷¹League of Nations, Official Journal, January 1937, p. 26.

⁷²Ibid., p. 27.

and that, in any case, the Sanjak formed "part of Syrian territory since the constitution of Syria as a state" in 1922.⁷³ Moreover, he argued, according to Article 4 of her Mandatory over Syria, France had guaranteed Syria against any loss of territory.⁷⁴

. III

Mr. Richard Sandler immediately entered into private conversations with the parties to the dispute. Apparently, these first private conversations with the parties were so encouraging that by December 16, 1936, two days later, the Rapporteur was in a position to present his first report to the League Council.⁷⁵

In that report, Sandler announced that the parties had agreed to a postponement of the examination of the substance of the dispute by the Council until the next ordinary session. Shortly afterwards, the Rapporteur further announced that complete agreement on certain preliminary points had been reached between France and Turkey during his private conversations with them. Further conversations in Paris had been unsuccessful, however, because France as Mandatory Power, would not accept the Turkish proposal that the Sanjak be made an independent State, but would accept a confederation with Syria and Lebanon, with the Sanjak enjoying jurisdiction over foreign policy, Customs Union and

⁷³ Ibid.

⁷⁴ League of Nations, Monthly Summary, Vol. XVI, January 1937, p. 368.

⁷⁵ Ibid., p. 369.

Monetary Union.⁷⁶ Additional private conversations in the presence of the Rapporteur resumed in Geneva on January 20th, 1937. By January 27th, 1937, only a week later, Richard Sandler, the Rapporteur, reported to the Council of the League of Nations that complete agreement had been reached.⁷⁷

IV

The final agreement "had provided for the negotiation of agreements between France and Turkey guaranteeing the territorial independence of the Sanjak and respect for the Turco-Syrian frontier."⁷⁸ Two of the main provisions of the agreement were: (1) that a Committee of Experts be appointed to study the Statute and Fundamental Law of the Sanjak of Alexandretta;⁷⁹ and (2) the appointment of an Electoral Commission for the organization and supervision of the first elections in the district.⁸⁰

The non-Turkish population (Arabs, Alawis and Armenians) were unhappy with the agreement. In fact, subsequent developments confirmed their worst fears, but, insofar as the League Council was concerned,

⁷⁶Ibid., Vol. XVII, January 1937, p. 2. See Walters, op. cit., p. 744.

⁷⁷League of Nations, Monthly Summary, Vol. XVII, January 1937, pp. 3-4; and Walters, ibid.

⁷⁸League of Nations, Monthly Summary, Vol. XVII, May 1937, p. 102.

⁷⁹Walters, op. cit., p. 744; and League of Nations, Monthly Summary, Vol. XVII, February 1937, p. 32.

⁸⁰Ibid., October 1937, pp. 251-252, and Walters, ibid.

"friendly relations between Damascus and Ankara were not profoundly disturbed."⁸¹

According to Walters, the successful peaceful settlement of the dispute on the Sanjak of Alexandretta and Antioch was mainly due to "the exertions of Richard Sandler, the Swedish Foreign Minister, as Rapporteur."⁸² In fairness, however, it must also be stated that there is evidence that at that particular period France was anxious about events in Europe and was "in no mood to quarrel with a country whose friendship was essential to their security."⁸³ In other words, it is possible that Richard Sandler's success in bringing about an amicable end to the dispute was as much a function of the French concessions to Turkey for her national security purposes as it was the role of the Rapporteur.⁸⁴

⁸¹Walters, *ibid.*

⁸²*Ibid.*, p. 743.

⁸³*Ibid.*, p. 745.

⁸⁴A similar dispute to the Sanjak of Alexandretta and Antioch in the sense that it involved a Great Power and a Middle Power which was settled peacefully, was the Question of Mosul (1924-26) between Great Britain and Turkey, where the Rapporteurs were Branting and Unden, representatives of Sweden. The Question of Mosul concerned the frontier between Turkey and Iraq. The Treaty of Lausanne signed on July 24, 1923, had stipulated that Great Britain and Iraq would need to agree within nine months of the signing, on the frontier. Having failed to agree, Great Britain reported the matter to the League of Nations, which, after a year of disturbances, Commission of Investigation, Advisory Opinion and Direct Negotiations and Rapporteurship, decided on the "Brussels Line." See Myers, *op. cit.*, pp. 317-319; T.P. Conwell-Evans, The League Council in Action (London: Oxford University Press, 1929), pp. 70-71, 108-110, 144-150, 231-232; and Walters, *op. cit.* See also Ottawa, Canada: Public Archives Records Centre, File No.: 265227: Question of the Frontier Between Turkey and Iraq. For specific documents on the Question of Mosul see the Bibliography of this thesis.

There were four other disputes in the same category as the Sanjak of Alexandretta and Antioch. Those were: (1) the Question of Mosul between Great Britain and Turkey; (2) the Anglo-Persian Oil Company (1927-28) between Great Britain and Persia; (3) the Question of Finnish Vessels (1934-35) between Great Britain and Finland; and (4) the Soviet-Uruguayan Relations (1936-37) between the Soviet Union and Uruguay. All four disputes, like the Sanjak, involved a Great Power and in each instance not only was force not used by the Great Power involved against the Lesser Power,⁸⁵ but all the Great Powers involved in the four disputes (Great Britain and the Soviet Union) cooperated with the League Council in attempting to find an equitable settlement to the dispute. Evidence of this was the Great Powers' willingness to accept the Rap-
porteurs appointed for the particular disputes. (The names of the Rap-
porteurs appear in the chart in the last chapter, on pp. 65-66.)

With regard to settlement procedures, the four disputes followed a pattern similar to that followed in the Sanjak dispute with only minor differences. For instance, it was only in the Sanjak that the Great Power (France) seemed very anxious to have the Rapporteur appointed, even before he had delivered his opening statement. For each of the four disputes considered here, however, the Rapporteur was only ap-
pointed by the Council only after the opening statements had been given.

⁸⁵A certain amount of violence occurred in the Mosul dispute, but the evidence suggests strongly that the violence was engineered by Turkey or Turkish elements in the border between Turkey and the Vilayet of Mosul, and that the British acted only in self-defence and in order to maintain the status quo.

In all four disputes, the Rapporteurs functioned as mediators. In the Mosul dispute the Rapporteur (Branting, who was later replaced by Unden, both of Sweden) brought the parties together into private conversations under his chairmanship and, because of the complex nature of the dispute, also resorted to the use of a Commission of Inquiry as well as asking for the Advisory Opinion of the Court. On the Question of Finnish Vessels the Rapporteur (Madariaga of Spain) not only convened a meeting of the disputing parties (Britain and Finland)—which action facilitated subsequent direct negotiations between them—but, seems to have acted with firmness in dealing with Great Britain's representative. For instance, Lord Robert Cecil had protested strongly against the application of Article 11, paragraph 2, of the Covenant because, as he stated bluntly, the dispute with Finland involved only a private debt, and there was no danger of a "rupture" between their two countries. "Article 11 was intended to cover real international disputes," said Lord Robert Cecil.⁸⁶ The Rapporteur stood firm, however, and even received support from the Italian representative who said:

... it would be very difficult to say that that Article could never apply in matters relating to debts.⁸⁷

⁸⁶League of Nations, Monthly Summary, Vol. XII, January 1932, p. 28. This strong stand by the 1932 British representative to the Council was affirmed by Anthony Eden when he said, in 1935, that "Article 11 of the Covenant related to circumstances affecting international peace or good understanding between nations. The present case was simply a pecuniary claim and was in no way of a such character." See, ibid., Vol. XIV, September, 1935, pp. 208-9.

⁸⁷League of Nations, Monthly Summary, Vol. XII, January 1932, p. 28.

In the face of British obstinacy, however, the Rapporteur finally advised the League Council to ask for an Advisory Opinion of the Court on the matter. Eventually, the dispute was settled privately between the British and Finnish Governments.

In the Anglo-Persian Oil Company dispute, a dispute in which Persia had cancelled the Company's concession because of what she alleged to have been insufficient receipts in terms of the contract, Eduard Beneš of Czechoslovakia had been appointed Rapporteur. He had quickly initiated private conversations between the parties. These talks under his chairmanship became so successful that on February 3rd, 1933, the League Council decided to suspend its discussions on the dispute to allow the private negotiations to continue. Slightly over two months later, on April 29th, 1933, the Rapporteur reported to the League Council that a satisfactory agreement had been reached between the two parties,⁸⁸ the terms of which included agreement on a revised concession granted to the company over an area of 100,000 square miles on a scale of royalties fixed at a minimum of £750,000 per annum.

In the Soviet-Uruguayan Relations dispute,⁸⁹ Uruguay had complained to the League Council that the Soviet Government was helping subversive

⁸⁸Ibid., p. 356. See, also, Walters, op. cit., pp. 571-3.

⁸⁹ League of Nations, Monthly Summary, Vol. XVI, January 1936. See also, League Document C. 11. M. 10. 1936 VII: Soviet Letter (dated December 30, 1935) to the Secretary-General of the League of Nations; also, League Document C. 40. M. 18. 1936. VII: Soviet Letter (January 13, 1936) to the Secretary-General of the League of Nations.

elements in Brazil by channelling funds through the Soviet Mission in Uruguay. The Rapporteur for the dispute, Titulesco of Roumania immediately entered into private conversations with the parties to the dispute, and only a day later, he produced a report on the basis of which the League Council passed a Resolution on January 24th, 1936, which urged the governments of the Soviet Union and Uruguay to refrain from any acts that would harm the interests of international peace.⁹⁰ Both states accepted the Council resolution which called upon them to resume diplomatic relations and to normalize their relations.

(4) Summary

In this chapter, those disputes in which Great Powers were directly involved—of which there were twelve—were examined. The purpose was to explore the role of the Rapporteur in the settlement of the disputes by the League Council. Although only three of those disputes were studied in depth,⁹¹ in general, the findings were found to apply to the rest of the disputes within their respective categories.

The study shows that force was used by a Great Power against a Lesser Power in four of the disputes of which one, the Corfu Incident of 1923, was examined in greater depth. In each of these disputes it seems there was little that the League Council could have done to have prevented the use of force. Significantly, in none of

⁹⁰League of Nations, Monthly Summary, Vol. XVI, January 1936, pp. 9-10.

⁹¹The Corfu Incident of 1923; the Eupen and Malmedy dispute of 1920-21; and the Sanjak of Alexandretta and Antioch of 1936-37.

these violent disputes was a Rapporteur ever appointed by the League Council. The inability of the League Council to appoint a Rapporteur for such disputes was definitely a weakness, but probably unavoidable in the face of reality. Even if Rapporteurs had been appointed for these disputes, it is doubtful that they could have accomplished very much since no Great Power was likely to sit down to negotiate and compromise when what was required was the quick use of its formidable power to accomplish its goals. Moreover, as there was no danger of escalation in these disputes,⁹² the temptation was very strong for the Great Powers to take unilateral action. The fact that no Rapporteurs were appointed for these disputes was not so much a rejection by these Great Powers who were parties to these disputes of the Rapporteur technique as such, but the natural tendency not to abandon an advantageous course of action for a more dubious alternative. There was no way of predicting the outcomes of Rapporteurship, although it was almost invariably expected that both parties to the dispute would be asked to modify their original demands. There was also the possibility that these states calculated that it was better to prevent conciliation or mediation measures by the League Council than to be confronted later by Rapporteur recommendations and Council decisions to which they already would have given tacit support.

On the whole, there were certain features common to the four disputes. Beyond the use of force by the Great Powers and the non-

⁹²There was no likelihood of involvement by the other Great Powers.

appointment of Rapporteurs for the disputes, the disputes involved or concerned directly the vital interests and the honour of the Great Powers.⁹³ This was particularly true of the three disputes involving the Small Powers, which resulted in the conquest of the territory of the Small Powers, with the League Council having lost almost complete control over the developments. In the Russo-Finnish war, while the League Council did take strong action, expelling Russia from the League of Nations, the action was taken too late to have any overall beneficial effect on the organization.

Japan's and Italy's discontent with, and arrogance towards, the League of Nations was clearly reflected in their disregard of the measures taken by the League Council to settle the disputes.⁹⁴ This was probably due to a combination of two factors: First, Italy's and Japan's attitudes and behaviour were related to the territorial acquisitions of some of the Great Powers after World War I, principally France and Great Britain, which they considered to have had the lion's share. Secondly, fuelling the above discontent, was Germany's original dissatisfaction with the terms of the Treaty of Versailles.

⁹³Manchuria was important to Japan in terms of Natural resources and the need for a market for Japanese goods, while Ethiopia and Corfu were a challenge to Italy's prestige and "honour" as a Great Power.

⁹⁴This was particularly true in the 1930's. It certainly did not apply to the Corfu Incident of 1923. The latter dispute not only took place about ten years earlier than the Manchurian conflict—the beginning of their real challenge to the League—but Italy, recently having been one of the Principal Allied Powers against Germany in World War I, was still clearly on the side of the other Great Powers.

In the three disputes in which Germany was the Great Power, no force was used by any of the parties, and Rapporteurs were appointed by the Council. It may be argued that as Germany's hands were tied at the time as a result of her defeat in World War I, she had no alternative but to accept the settlement procedures imposed on her by the League Council, including possible mediation by the Rapporteur. Although the appointment of a Rapporteur was conditional upon acceptance of the particular representative by the two parties to the dispute, there is no evidence that Germany had any meaningful choice—that is, to reject the nominations. It is therefore questionable whether the three disputes⁹⁵ represent the kind of procedures which Germany would have gone along with under different circumstances. In fact, in two of the disputes Germany was confronted with Small Powers⁹⁶ against whom she could successfully have used military force.⁹⁷ However, the appointment of Rapporteurs for these disputes does not seem to have led to any serious mediation of the disputes. The outcomes of the disputes show that they were really not determined or shaped by any acts of compromise or concessions on the part of the disputing states. Rather, they were settled by judicial interpretations of the Treaty of Versailles. Interestingly enough, the settlements favoured

⁹⁵Eupen and Malmedy dispute; Question of Upper Silesia; and Dismissal of Memel Official.

⁹⁶Eupen and Malmedy Dispute; and Dismissal of Memel Official.

⁹⁷Thus, whether Germany would have accepted mediation by a Rapporteur under different circumstances remains an open question.

the positions of the Lesser Powers.⁹⁸

Finally, there were five disputes involving three of the Great Powers—France, Great Britain and Russia—which were settled without the use of force by any of the parties. For each of the five disputes, not only were Rapporteurs appointed by the Council for their settlement, but the outcomes of the disputes were the result of substantial contributions by the Rapporteurs. In each case, the Rapporteurs seem to have mediated successfully to the satisfaction of both the League Council and the parties to the disputes themselves.

With regard to the nature of these disputes, there would appear to be certain common features which throw further light on why force was not used. It is possible, for instance, that an inhibiting factor was the fact that the two disputes involving France and Great Britain, on one hand, and Turkey on the other, did not really touch any vital interests of the Great Powers. In both cases the Great Powers were disputing on behalf of dependent peoples under their mandate. It is

⁹⁸In the Eupen and Malmedy dispute Belgium's position was upheld because (1) no investigation had been made of Germany's allegations; (2) the League Council did nothing until Belgium had presented to the Council the results of the "public expression of opinion"; (3) even after the latter had been done the Council accepted Belgium's position; and (4) Eupen and Malmedy was formally placed under Belgian sovereignty just as Belgium had always insisted. In the Memel dispute Lithuania's position was upheld and the dismissal by Lithuania of the President of the Memel Directorate was held to be justified. Only in the Upper Silesia dispute was the final verdict not totally supportive of the Lesser Power's position. That was probably because of the results of the plebiscite which had reflected ethnic concentrations and differences. But, most importantly, it was perhaps because of the split among the Great Powers themselves which determined the middle-of-the-way outcome of the dispute.

highly unlikely that France and Great Britain would have considered that any interests of their protégés (Syria and Iraq) would have been served by taking aggressive action against Turkey, especially since Turkey was arguing on purely legal grounds. For, force to have been used on behalf of the mandated territories, or in defence of these lands, would have needed the approval of the League Council, perhaps under Article 16 of the Covenant. Such an eventuality was very remote in the circumstances because Turkish loyalty to the League of Nations, and her willingness to abide by its decisions, was not in question.

The other disputes involving the Small Powers were similar in the sense that they concerned non-governmental activities and interests. It is highly unlikely that Great Powers would have resorted to force in such situations.

It is therefore possible to conclude that the non-use of force and the successful Rapporteurship in the five disputes could be traced to the general attitudes of the Great Powers involved towards the League of Nations, and their moral commitment to the success of the Rapporteur technique. France and Great Britain introduced Rapporteurship into the League of Nations, and perhaps more than the other powers they were prepared to resort to the technique for peaceful settlement. At the time of the Soviet-Uruguayan Relations dispute, the Soviet Government had in the recent past been admitted to the League of Nations and seemed anxious to establish herself as a loyal and responsible member of the organization. Moreover, Soviet credibility

would have been undermined had she used force in a dispute whose existence she had vehemently denied and then downgraded.

CHAPTER V

RAPPORTEURSHIP AND THE LESSER POWERS

This chapter addresses itself to the role of Rapporteurs in the settlement of those disputes to which only the Lesser Powers were parties. Of the twenty-eight disputes which the League Council fully investigated, sixteen of them involved Middle Powers and Small Powers. It is these sixteen disputes which will be explored in this chapter. They include eleven Middle Power v. Small Power disputes; and five Small Power v. Small Power disputes. There were no disputes between the Middle Powers only.

As in Chapter IV, it is possible to classify these disputes in terms of the two broad categories of whether or not force was used by one, or both, of the parties to the dispute. The use, or threatened use, of force among the Lesser Powers was an important consideration in the League Council's attempts to settle these disputes. However, unlike the use of force by the Great Powers which usually complicated Council procedures for settlement in the sense that the Council was often prevented from following all its procedures, the use of force by the Lesser Powers had no such effect. In fact, despite the incidence of violence in five of the sixteen disputes, the Council was able to cope successfully with the use of force in these Lesser Power disputes. That is, the League Council responded quite differently to the use of force by the Great Powers, and the use of force by the Lesser Powers.

For example, in disputes involving Lesser Powers, the League Council was never prevented from appointing a Rapporteur for a dispute merely because one of the parties had already resorted to the use of force in an attempt to achieve its objectives.

In view of the above comments, and in particular, because force per se was less of a determining factor in the selection of appropriate settlement procedures by the League Council,¹ and because Rapporteurship was resorted to despite the incidence of violence in some of the disputes, the disputes in this chapter will be classified in terms of Rapporteur-functional categories.² However, because force was not totally irrelevant in these disputes, it was decided that one of the disputes to be studied in depth should be an example of the disputes in which force was used.³ As indicated in Chapter III (p. 79), the purposes of this chapter do not require that all the sixteen disputes should be analyzed in depth. Four of the disputes will be examined more closely.⁴

¹Because the competence of the League Council was never challenged.

²See Chapter III, p. 81.

³Demir Kapu Incident of 1925.

⁴The choice of the particular four disputes to be studied in depth has been arrived at by selecting one dispute among the five disputes in which violence occurred, and three disputes from the eleven others in which no force was used. The latter choices were based on functional categories relating to Rapporteurship as follows: Direct mediation; No direct mediation; and Council action. Considerations such as availability of data, and timing of the dispute, also had a bearing on the ultimate choices.

As in Chapter IV, each of the analyses will follow a 5-point sequence: (i) Summary description of the dispute; (ii) Preparation stage, including the formal submission of the dispute to the League Council; the preliminary remarks or statements of the parties to the assembled Council during its first meeting; and the appointment of the Rapporteur; (iii) the Action stage, including the initial steps taken by the Rapporteur to get negotiations underway between the parties; mediation by the Rapporteur; Reports presented by the Rapporteur to the League Council; and, Council discussions (if any) of the continuing dispute; (iv) the Outcome, including the final reports and recommendations of the Rapporteur to the Council on the possible settlement of the dispute; the final decisions and resolutions of the Council on the dispute; and (v) a summary assessment of the role of the Rapporteur in the dispute. The chapter will conclude with a summary of the findings regarding the role of the Rapporteur in the settlement of disputes involving the Lesser Powers.

1. The Demir Kapu Incident (1925)⁵: Middle Power v. Small Power

(i)

On October 19, 1925, a Greek sentry and a Greek soldier were shot to death by Bulgarian border guards at the Greco-Bulgarian frontier. This incident occurred close to a mountain pass called "Demir

⁵For a recent account and analysis of the Demir Kapu Incident, see James Barros, The League of Nations and the Great Powers (Oxford: At the Clarendon Press, 1970). The Demir Kapu Incident is important from the point of view of successful, peaceful settlement by the League of Nations. It also illustrates well the workings of the type of leadership the Rapporteur often displayed in the League Council discussions.

Kapu." There were no Greek witnesses to the incident. However, circumstantial evidence as well as later reconstructions of the events, seem to suggest that after the initial shooting, the two opposing border posts (Bulgarian Post No. 1 and Greek Post No. 69) which were only 40 meters apart "turned out with their arms and the firing began," which touched off a generalized shooting spree all along a forty-six kilometer frontier between the two countries. This escalation of the incident reached the point where Greeks penetrated Bulgarian territory and bombarded several Bulgarian villages, apparently, without any visible resistance or opposition by the Bulgarians.

(ii)

On October 22, 1925, Bulgaria asked for the intervention of the League of Nations. In one of its swiftest responses to a call for its intervention, the League Council not only summoned an Extraordinary Session⁶ beginning on October 26, 1925, but simultaneously ordered the two countries to cease fire immediately, and to withdraw their troops to their borders.⁷ When the League Council met in Paris on October 26, 1925, two distinct tasks had to be faced with regard to the Greco-Bulgarian dispute: first, to see to it that there was a general

⁶Extraordinary Session of the League Council held from October 26 - 30, 1925, in Paris. See League of Nations, Official Journal, November 1925, Part II.

⁷By telegram sent by the then President of the Council of the League of Nations, M. Aristide Briand of France. See D. P. Myers, Handbook of the League of Nations, op. cit., p. 36. Also see League of Nations, Official Journal, November 1925, pp. 1696-7.

cease fire observed by both sides and that the troops of both states withdrew to their original positions; second, that a peaceful settlement of the dispute be reached.

At the first public meeting of the League Council which was held on October 26, at which the representatives of Greece and Bulgaria were present, the President of the Council asked the representatives of the two countries to say whether or not the ceasefire which had been ordered on October 22, had been effected.⁸ Answers from Mr. Markoff (Bulgarian Representative) and Mr. Carapanos (Greek Representative) were vague and evasive.⁹ Whereupon, the League Council met in private session and appointed Sir Austen Chamberlain as the Rapporteur.¹⁰

As Rapporteur of the Demir Kapu crisis, Sir Austen Chamberlain considered that his first task was the termination of hostilities. This is quite clear from his first report to the League Council that first day.¹¹ In his preliminary remarks, he observed:

⁸"The Council's first demand was that all fighting should cease and that each side should withdraw its troops behind its own frontiers: Until it had received assurances on these points, they declined to listen to the legal and moral justifications on their actions." See, League of Nations, Official Journal, November 1925, p. 1698; and Francis P. Walters, A History of the League of Nations (London: Oxford University Press, 1952), p. 312.

⁹League of Nations, Official Journal, November 1925, p. 1699.

¹⁰Ibid.

¹¹Ibid., pp. 1699-1700.

Such incidents as that which has caused our present meetings have sometimes had very serious consequences in the past, when there was no machinery such as that offered by the League of Nations for their peaceful adjustment and for securing justice for both parties; but it would be an intolerable thing—I go so far as to say it would be an affront to civilization—if, with all the machinery of the League at their disposal and with the good offices of the League at their disposal and with the good offices of the Council immediately available—as this meeting shows—such incidents should lead to warlike operations instead of being submitted at once for peaceful and amicable adjustment by the countries concerned to the Council.¹²

After expressing the view that the "Council is not satisfied that military operations have ceased and that troops have been withdrawn behind the national frontiers,"¹³ Sir Austen Chamberlain requested—

... the representatives of the two States to inform it within twenty-four hours that the Bulgarian and Greek governments have given unconditional orders to their troops to withdraw behind their respective national frontiers, and within sixty hours that all troops have been withdrawn within the national frontiers; that all hostilities have ceased and that all troops have been warned that resumption of firing will be visited with severe punishment.¹⁴

The report¹⁵ submitted by Sir Austen Chamberlain was discussed at length by the League Council, at the end of which Sir Austen's recommendations, which were in the form of a Council Resolution, were put to the vote of the Council and were adopted unanimously.

¹²Ibid., p. 1699.

¹³Ibid.

¹⁴Ibid., pp. 1699-1700.

¹⁵Ibid.

Ordering the two states to cease hostilities was an important step towards the peaceful settlement of the substance of the dispute and, in fact, the role of the Rapporteur began when hostilities ended. For instance, in the Vilna Dispute, Rapporteur Paul Hymans did not begin his mediation efforts until the League Council had satisfied itself that violent clashes between Polish and Lithuanian troops had ceased. This is not to suggest, however, that the function of the Rapporteur was so clearly defined as to exclude or include certain procedures. The specific procedures and tactics which a Rapporteur chose to settle a dispute were determined by the Rapporteur's perception of the nature of the conflict and the parties to the dispute as much as by the power and authority of Rapporteurship itself.

Thus, the tough line Sir Austen Chamberlain took with regard to the Demir Kapu Incident, insisting on a ceasefire and withdrawal of troops before the substance of the dispute could be considered, may be related to the fact that Sir Austen was the representative of a Great Power. James Barros has also argued that although the settlement of the dispute is often hailed as an example of the League of Nations' effectiveness, in fact the Great Powers had worked even harder (behind the scenes) to produce the satisfactory outcome that is now history.¹⁶ However, from the point of view of the League of Nations, there is no doubt that in this dispute's settlement the Rap-

¹⁶This is the central theme of James Barros' book: The League of Nations and the Great Powers, op. cit.

porteur played a central role.

Outside the League Council, the Great Powers ~~did~~ carry on their traditional diplomatic maneuverings which the creation of the League Council had not superseded or replaced. However, this behind-the-scenes explanation is true only if it is restricted to the ceasefire aspect of the dispute.¹⁷ This may be supported by the fact that immediately after the League Council called on the two states to stop fighting, the military attachés of the Great Powers (France, Great Britain and Italy) were dispatched to the frontier to see that the ceasefire was being observed.¹⁸ As a result there was a ceasefire, and Sir Austen Chamberlain could report to the fourth meeting of the League Council held on October 29th, 1925, that—

The Council has fortunately been able to satisfy itself today that hostilities have ceased and that all troops are withdrawing behind their respective national frontiers. The Council can now proceed to a consideration of the steps required for a complete and final solution of the difficulties which have arisen.¹⁹

(iii)

For the substantive aspects of the dispute, Sir Austen Chamberlain recommended the appointment of a Commission of Inquiry which would

¹⁷Apart from whatever private interests the Great Powers might have had in stopping the hostilities, there was always the danger that such Lesser Power conflicts might escalate into more serious confrontations between the Great Powers themselves.

¹⁸League of Nations, Document C. 529. M. 202. 1926. II. Also available in Ottawa, Public Archives Records Centre, File No. 265287. See also, Walters, op. cit., p. 313.

¹⁹Ibid.

investigate in detail all the circumstances of the dispute. The terms of reference of the Commission²⁰ included the following:

1. That the Commission would establish the facts enabling the responsibility to be fixed, and supply the necessary material for the determination of any indemnities or reparation which might be considered appropriate;
2. That the Commission should submit a report before the end of November, in order that the Council might examine it at its December session;
3. That the Commission should submit any suggestions which would eliminate or minimize the general causes of such incidents in the future.²¹

The Rumbold Commission resumed its inquiry on November 6, 1925. From Geneva, the Commission travelled to Belgrade where they met the Military Attachés²² of France, Great Britain and Italy on November 9th. The actual sessions between the Commission and the Military Attachés took place in the train between Belgrade and the border districts on November 11th. At these border districts, the Rumbold Commission interrogated military staff men and officers, and

²⁰The Commission was composed of five members: Sir Horace Rumbold (British Ambassador to Spain); Général de Division Serrigny of the French Army; Général de Division Ferrario of the Italian Army; His Excellency M. De Adlercreutz, Swedish Minister at the Hague; and M. Droogleever Fortuyn, Member of the Netherlands Parliament. Major G. H. F. Abraham of the League Secretariat was the Commission's Secretary.

²¹Commission of Enquiry into the Incidents on the Frontier between Bulgaria and Greece, op. cit., p. 1.

²²These officers would prove to be valuable sources of information to the Commission because at the start of the Demir Kapu affair they had been asked by the League Council to remain in the district where the incidents had taken place to supervise the withdrawal of Belgian and Greek troops. They had also conducted inquiries of their own on behalf of their countries.

generally, acquainted themselves²³ with the possible causes and aftermath of the Greek invasion of Bulgarian territory which had taken place between October 22nd and October 28th, 1925.

From the border area, the Commission moved on to Athens where from November 16th to the 20th they interviewed a number of high Greek officials, including the Greek Minister of Foreign Affairs in the presence of the Chief of Staff of the Greek Army and the General commanding the 1st Army Corps, and they also held conversations with the Greek Prime Minister. From November 21st to 26th, the Commission was in Sofia where they met both the Minister of Foreign Affairs and the Prime Minister, as well as having an audience with his Majesty the King. After Sofia, the Rumbold Commission retraced its steps back to Belgrade where they remained to prepare their report till November 28th, 1925.

The report of the Rumbold Commission on the Demir Kapu Incident rejected the claim by the Greek Government to an indemnity as compensation and costs incurred.²⁴ Instead, the Commission found that the Greek Government was "responsible for expenses, losses and suffering caused to the Bulgarian People and the Government by the invasion of Greek troops."²⁵ According to the Commission, therefore, it was quite

²³In order to cover as much ground as possible, the Commission divided itself into subcommittees.

²⁴The claim by the Greek Government was for 50,000,000 drachmas (approx. \$500,000) "in order to compensate the families of officers and soldiers killed or wounded and in order to pay for the costs of the transport, concentration and feeding of the troops." See, League of Nations, Document C. 727. 1925. VII (3): Commission of Enquiry Into the Incident on the Frontier Between Bulgaria and Greece. Report, p. 8.

²⁵Ibid.

in order that the Greek Government make reparation to Bulgaria for which the latter claimed 52,500,000 levas (approx. \$250,000). After studying the Commission's Report and, with the help of two Council colleagues (Viscount Ishii of Japan and José Mario Quinones de Leon of Spain), Sir Austen recommended reparation by Greece for the destruction of Bulgarian property, and also recommended the institution of a Greco-Bulgarian Mixed Commission, just as the Rumbold Commission had advocated.

It may be noted that, in this particular dispute, unlike the Hungarian Optants (1927-28) in which he was also Rapporteur (see Section 4 below), Sir Austen did not attempt to mediate between the disputing states outside the Council meetings. In this sense, the dispute was handled much in the same way as the Aaland Islands dispute was handled, for which A.J. Balfour and H.A.L. Fisher acted as Rapporteurs. In the League Council deliberations, Sir Austen supplied all the guidance and suggestions which the Council appears to have followed without much question. First, he required that the substantive discussions on the dispute not be entered into until hostilities had ended, which the Council acceded to. Then, when hostilities had ended, it was Sir Austen Chamberlain who suggested that the League Council resume the discussion of the substantive aspects of the dispute, but that a Commission of inquiry be set up before that discussion actually got under way.²⁶ That also was agreed to by the League Council.

²⁶T.P. Conwell-Evans, The League Council In Action (London: Oxford University Press, 1929), pp. 156-7. In particular, see League of Nations, Document C. 727. 1925. VII(3): Commission of Inquiry Into the Incidents on the Frontier Between Bulgaria and Greece (November 28th, 1925).

Even the terms of the final settlement of the issue were largely a function of the exertions and recommendations of the Rapporteur. The Rapporteur had, in this particular dispute, dominated much of the proceedings, his recommendations had been totally accepted by the League Council and were successfully acted upon.

(v)

The Demir Kapu Incident, like the Corfu Incident of 1923, was a dispute in which force was resorted to by one of the parties so swiftly that nothing that the League Council could have done would have prevented the violence that occurred. However, unlike the Corfu Incident, the League Council was not prevented from performing its function of peaceful settlement. That was because, unlike Italy, a Great Power, Greece was a Middle Power which could have been subjected to sanctions by the Council, especially if the Great Powers were united. On this particular dispute, the Great Powers were unanimous in their opposition to the Greek invasion of Bulgarian territory.

Thus, the first meeting of the Extraordinary Session, instead of listening to the opening statements of the parties to the dispute, the League Council refused to hear the parties, nor was it willing to enter into any substantive discussions of the dispute until hostilities had ceased and the troops of both countries had withdrawn to their respective territories. Without waiting for the implementation of that request, the Council appointed Sir Austen Chamberlain as the Rapporteur. Sir Austen

chose to work through a Commission of Enquiry rather than by trying to mediate directly in encouraging direct negotiations between the parties.²⁷

By a combination of tactical omissions and refusals, and also timing by the Rapporteur, the dispute was peacefully settled. Greece was ordered to pay Bulgaria for the destruction of her territory. The verdict was unambiguous, as the Rapporteur had taken a firm stand right from the start through the course of the consideration of the dispute by the League Council. His sense of fairness showed itself when he requested that Council appoint two of his Council colleagues to help him interpret the Rumbold Commission's Report. Thus, the Demir Kapu Incident has often been hailed as a demonstration that the League Council's procedures for peaceful settlement were effective, and a clear case of successful Rapporteurship.

2. The Aaland Islands Question (1920-21)²⁸: Middle Power v. Small Power

(i)

The Aaland Islands Question, a dispute between Sweden and Finland,²⁹ was first formally reported to the League Council through a

²⁷This procedure was similar to the procedure adopted by the Rapporteur in the Aaland Islands Question. See pp. 168 ff. below.

²⁸For a historical account and analysis of the Aaland Islands Question a recent study by James Barros is recommended. The Aaland Islands Question: Its Settlement by the League of Nations (New Haven: Yale University Press, 1968).

²⁹Sweden was a Middle Power, while Finland was a Small Power mainly concerned with her survival and sovereignty as a political entity.

communication from the British Government to the Secretary-General of the League of Nations.³⁰ The dispute concerned a constellation of strategically situated and internationally contested islands in the Baltic Sea.³¹ Although the population of the Aaland Islands was predominantly Swedish, the Aaland Islands in recent history had been regarded and treated constitutionally as part of Finland.³² However, after the successful dismemberment of Finland from Russia after World War I, and in particular as an outcome of the creation of the sovereign and independent state of Finland in 1917, the Aaland Islanders made the occasion the opportune moment to ask for union with Sweden.³³ That

³⁰League of Nations, Official Journal, July-August, 1920, Annex 1: Letter from Lord Curzon to the Secretary-General, p. 250, or League of Nations Document 11/5020/468: Aaland Islands.

³¹The controversy for the control of the Aaland Islands was not limited to Sweden and Finland only. Russia, Great Britain and Germany were always concerned whatever country controlled the Aaland Islands. See also, The Fisher Papers, Box 29, Book 5: The Aaland Islands (Prepared under the Direction of the Historical Section of the Foreign Office: No. 48).

³²League of Nations, Official Journal, Special Supplement No. 1, August 1920, The Aaland Islands Case, pp. 3-14. "Strictly speaking, however, the Islands have never 'belonged' to Finland, for Finland was never an independent or sovereign state until two years ago. The Islands have 'belonged' first to Sweden, and subsequently to Russia," The Fisher Papers, op. cit., p. 28.

³³League of Nations, Official Journal, Special Supplement No. 3, The Report of the International Commission of Jurists Entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion Upon the Legal Aspects of the Aaland Islands Question. Delegates of the Aaland Islands Communes assembled in Finstrom on August 20, 1917, and their expressed desire to be reunited with Sweden was transmitted to the Swedish Parliament on November 27, 1917. This was followed on December 31, 1917, by a plebiscite in which an overwhelming proportion of the Islanders voted for reunion with Sweden.

bid by the Aaland Islanders for re-unification with Sweden created, in the process, tension between Sweden and Finland, and a potentially dangerous situation in the Baltic region.

(ii)

It was under these circumstances that Lord Curzon of Kedleston, the British Foreign Secretary, submitted the dispute to the Council of the League of Nations on June 19, 1920.³⁴ At the time of this communication on the Aaland Islands Question, the Council was meeting in London during its Seventh Session. By custom, as the Council Representative of the host country was to be the President of the Council Session, Arthur J. Balfour, British Representative, was the then Council President.³⁵ But, "Mr. Balfour proposed that, as he would be Rapporteur on the Aaland Islands, M. Bourgeois should take the chair during the discussion of the question."³⁶

³⁴It was during the Seventh Session of the Council of the League of Nations, held in London from July 9 to 12, 1920, that the Aaland Islands Question was first tackled by the League Council.

³⁵Arthur J. Balfour was the official British representative to the League Council. See League of Nations, Document 11/5526/468.

³⁶League of Nations, Document 27/5564/2764: Aaland Islands Question, p. 3. These are the minutes of the First Private Meeting of the Seventh Session of the Council which was held on July 9, 1920.

It is not clear who appointed Balfour to be Rapporteur, although it can be safely assumed that he appointed himself. For, it was one of the known functions of the President of the League Council to appoint a Rapporteur, which included the possibility that such a President could appoint himself. Nonetheless, the phrase "as he would be Rapporteur" seems to suggest that a prior arrangement or agreement had been reached which had placed him in line for Rapporteur, or, unless he was expected to be the first Rapporteur because he had been responsible for the formal introduction of the technique to the League

Later on the same day, July 9, 1920, the League Council heard the opening statements of the Swedish and Finnish representatives (Branting and Enckel, respectively). In his opening remarks, the Swedish Representative stated the position of the Swedish Government which was in general agreement and sympathy with the wishes of the Aaland Islanders: that for historical, cultural, linguistic and geographic reasons, the Aaland Islands should be allowed to become part of Sweden. The Aaland Islanders had overwhelmingly expressed their desire to exercise their right to self-determination, and it was the duty of the League of Nations to grant that right. On the other hand, the Finnish representative argued that there could be no argument about Finland's sovereignty over the Aaland Islands, and that on that basis, the problem of the Aaland Islands was clearly an internal matter of Finland, over which even the League of Nations had no jurisdiction. With regard to the Aaland Islanders' desire for linguistic rights and cultural identity, Finland had already granted the Aaland Islands autonomy and language rights.

Before the League Council could attempt to settle the Aaland Islands dispute, it was obliged to answer Finland's contention that the problem of the Aaland Islands was an internal matter for Finland and solely within her internal jurisdiction. The League Council therefore

Council. In the absence of hard evidence (and there is none available at this writing), it is difficult to decide one way or the other on this point. It is true, however, that there is no other instance in the history of the League of Nations in which the President of the League Council appointed himself as the Special Rapporteur of a particular dispute, although there was nothing to prevent it, especially if he thought he was the best suited to settle the dispute.

was impelled to submit the following questions for an Advisory Opinion of the Court:³⁷

- 1) Does the Swedish case, as presented by the Council on the Aaland Islands, arise out of a matter which by International Law is solely within the jurisdiction of Finland, within the meaning of paragraph 8 of Article 15 of the Covenant?
- 2) What is the present state of International obligations regarding the demilitarization of the Aaland Islands?

In effect, the Court was being asked by Finland to pronounce upon the competence of the League Council to deal with the dispute. Until that problem was settled there was nothing much that the League Council or the Rapporteur could do with respect to the substance of the dispute. Balfour did, however, ask the representatives of Sweden and Finland to assure the League Council that, in the meantime, they would avoid any violence between them. This appeal from Balfour was made during the fourth private meeting of the Seventh Session of the Council on July 10, 1920, during a lengthy speech,³⁸ in which he proposed the appointment of a Commission of International Jurists to resolve the legal question of the League's competence. Both Sweden and Finland said everything would be done by their respective governments to avoid aggravating the situation. The Acting President of the Council, M. Bour-

³⁷League of Nations, Official Journal, July-August, 1920, p. 249. As the Permanent Court of International Justice had not yet been created, the Council created a Commission of International Jurists to give the Advisory Opinion.

³⁸Ibid.

geois of France, responded by declaring that "the Council had duly noted the declarations expressed by both parties, which morally bound the two governments concerned."³⁹ By extracting from the disputing states a pledge to keep the peace, the Rapporteur appears to have laid the foundation for the later peaceful settlement of the basic issues.

From July 10, 1920, when Balfour appealed directly to the representatives of Sweden and Finland to keep the peace, to the Fourteenth Session of the League Council in September 1921, when the Question of the Aaland Islands was finally settled,⁴⁰ there is no available record which would suggest that Mr. Arthur Balfour or Mr. H.A.L. Fisher, his successor, ever attempted to settle the dispute between the states by direct mediation or negotiation. Even the Rapporteurs' Reports give no hint that there was any contact between the Rapporteur and the parties to the dispute outside the League Council conference rooms. This is puzzling because, as most of the disputes analyzed in this study show, direct mediation by the Rapporteur between the parties, or initiation of negotiations between the parties was an important technique of Rapporteurship.

³⁹Ibid., p. 250.

⁴⁰(1) League of Nations, Official Journal, July-August, 1920: Declaration by Mr. Balfour on behalf of the Council, Annex 68L., p. 59; (2) League of Nations, Document 27/6892/2764: The Aaland Islands Question: Report Presented by the British Representative, Mr. H.A.L. Fisher, and adopted by the Council of the League of Nations, Meeting in Paris on 20th September, 1920; (3) League of Nations, Document 27/7747/2764: Aaland Islands: Report presented by Mr. Balfour, and adopted by the Council on 28th September, 1920.

(iii)

Basically, the Swedish case was "That the Aaland Islands population shall be allowed to determine by plebiscite whether the Archipelago shall remain under Finnish sovereignty or be incorporated with the Kingdom of Sweden."⁴¹ On the other hand, Finland opposed the Swedish case on the grounds that: (1) it was a matter of Finnish domestic jurisdiction; (2) there were grave economic and military aspects which Finland could not afford to overlook; (3) it would prejudice the whole existence of Finland; (4) the Aaland Islanders were not an oppressed people; and (5) the League Council was not competent to deal with the matter.⁴² It was primarily because of this last point that the League Council, on July 11th, 1920, sought the Advisory Opinion of the Commission of International Jurists composed of three eminent experts (Professors F. Larnaude of France, A. Struycken of the Netherlands, and Max Huber of Switzerland).⁴³ On September 5th, 1920, the Commission of International Jurists presented

⁴¹League of Nations, Official Journal, July-August, 1920, p. 248. For the full Swedish case, see League of Nations, Official Journal, Special Supplement No. 1, August, 1920, pp. 15-24.

⁴²Ibid., pp. 3-14.

⁴³League of Nations, Official Journal, Special Supplement No. 3, October, 1920: Report of the International Committee of Jurists Entrusted by the Council of the League of Nations with the task of giving an Advisory Opinion upon the Legal Aspects of the Aaland Islands Question.

their report to the League Council.⁴⁴ On the basis of that report, the Council's Rapporteur (H. A. L. Fisher) prepared and presented his own report and recommendations.⁴⁵ At one stage of his report, Mr. Fisher said:

After a careful consideration of all the arguments adduced on both sides, I have come to the conclusion that the question of the fate of the Aaland Islands cannot be considered entirely as a domestic question with which Finland, and Finland alone, is concerned, but that it presents an international aspect which brings its consideration within the competence of the League.⁴⁶

He thereafter proposed a resolution—unanimously adopted by the League Council—which included his recommendation for the appointment of a committee of Rapporteurs⁴⁷ "to make a thorough study of all the other points involved, taking into full account the legitimate interests of every party of the dispute" which would provide "a satisfactory settlement of this difficult question."⁴⁸

⁴⁴League of Nations, Document 20/4/238 (or Council Document 69, September 5, 1920): "Report of the International Commission of Jurists entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion Upon the Legal Aspects of the Aaland Islands Question." The major finding of the Commission was that "the dispute does not refer to a question which is left by International Law to the domestic jurisdiction of Finland." See Footnote 43.

⁴⁵League of Nations, Document 27/6892/2764: Report presented by the British Representative, op. cit.

⁴⁶Ibid., p. 75.

⁴⁷The procedure whereby several Rapporteurs (usually three), working as a group or committee, was to grow to be a familiar method resorted to by the League Council.

⁴⁸League of Nations, Document 27/7747/2764: Report presented by Mr. A. J. Balfour, and adopted by the Council on 28th October, 1920, p. 155.

It is interesting to note that despite the unequivocal Advisory Opinion of the Commission of International Jurists "that the dispute does not refer to a question which is left by International Law to the domestic jurisdiction of Finland"⁴⁹ clearly making the League Council competent and responsible for the settlement of the dispute, the latter organ chose not to follow the expected procedure. Normally, the League Council would have been expected to adjourn on that item to give the Rapporteur the opportunity to try to settle the dispute directly with the states. Instead, however, another international commission⁵⁰ was appointed—recommended by the Rapporteur (H. A. L. Fisher)—the "Commission of Inquiry" or, as it was also called, the "Committee of Rapporteurs," which was given the task of reporting on the substantive aspects of the Aaland Islands Question. As the role of Rapporteurs' Committees will be specially dealt with in Chapter VI, here it may suffice to note only that on April 16th, 1921, the Committee of Rapporteurs presented their report⁵¹ which reviewed the geographical, ethnic, political, economic and military considerations at length. On the basis of the report of the Committee of Rapporteurs, the Rapporteur (Mr. Fisher), submitted his own report and recommendations for

⁴⁹Ibid.

⁵⁰League of Nations, Document 11/7575/468 (same as Council Document S. 3): Aaland Islands Commission: Report by the Secretary-General: Appointment of the Commission of Rapporteurs.

⁵¹See, Ottawa, Public Archives Records Center, File No. 265142 (same as League Document 21/68/106 or Council Document B7) dated February 7, 1921.

the final settlement of the dispute.⁵² The recommendations which were in the form of a draft resolution of the Council, which the League Council accepted in its entirety, included "1. The Sovereignty of the Aaland Islands is recognised to belong to Finland"; and "5. An international agreement in respect of the non-fortification and the neutralisation of the Archipelago should guarantee to the Swedish people and to all the countries concerned, that the Aaland Islands will never become a source of danger from the military point of view."⁵³ All these recommendations crystallized, ultimately, into a peaceful and definitive settlement represented by the signing of the Non-fortification and Neutralization Treaty by ten countries, including Sweden and Finland.⁵⁴

Thus ended the Aaland Islands Question. It appears that the final settlement of the dispute by the League Council was based primarily on the recommendations of the Rapporteur. That is, the League Council, in its resolutions and recommendations for settlement relied heavily on the views of the Rapporteur. A comparison of the Council's Resolutions

⁵²League of Nations, Official Journal, September 1921, pp. 41-42.

⁵³Ibid.

⁵⁴Ottawa, Canada, Public Archives Records Center, File No. 265142 (Confidential (11803) (N11935/7923/56) C.I.A.12: Convention à la Non-fortification et à la Neutralisation des Îles d'Aland. The original document was in French, and an English translation of that document is: League of Nations, Document C.I.A. 12(8) (C. 419. M. 300. 1921) (11/17071/13836), dated January 19, 1922. The other countries which signed the Treaty were: Denmark, Esthonia, France, Germany, Italy, Latvia, Poland and Great Britain. See also, League of Nations, Minutes of Council, Vol. 14-15, 1921, Annex 234: Aaland Islands: Memorandum by the Secretary-General, Adopted by the Council on August 30th, 1921, p. 22.

and the Rapporteur's Reports, recommendations and draft resolutions quickly establishes that relationship. For example, the League Council's Principal Resolution settling the Aaland Islands dispute reads as follows:

The Council, at its meeting of June 24th, 1921, having regard to the fact that the two parties interested in the fate of the Aaland Islands have consented that the Council of the League of Nations should be called upon to effect a settlement of the difficulties which have arisen and that they have agreed to abide by its decision; and

After consideration of the Report of the Jurists which settled the question of its competence and of the decision of the Council, of September 20th, 1920, which recognised the aforesaid competence; and

Having reviewed all the geographical, ethnical, political, economic and military considerations set forth in the memorandum of the Rapporteurs, who undertook a thorough enquiry upon the request of the League of Nations; but

Having recognised, on the other hand, the desirability of a solution involving a maximum of security both for the population of the Islands and the parties concerned;

decides:

1. The sovereignty of the Aaland Islands is recognised to belong to Finland.

2. Nevertheless, the interests of the world, the future of cordial relations between Finland and Sweden, the prosperity and happiness of the Islands themselves, cannot be ensured unless:

a) Certain further guarantees are given for the protection of the Islanders; and unless

b) Arrangements are concluded for the non-fortification and neutralisation of the Archipelago.

3. The new guarantees to be inserted in the autonomy law should specially aim at the preservation of the Swedish language in the schools, at the maintenance of the landed property in the hands of the Islanders, at the restriction within reasonable limits of the exercise of the franchise by newcomers, and at ensuring the appointment of a Governor who will possess the confidence of the population.

4. The Council has recognised that these guarantees would be more likely to achieve their purpose if they are discussed and agreed to by the representatives of Finland with those of Sweden, if necessary with the assistance of the Council of the League of Nations, and, in accordance with the Council's desire, the two parties have decided to seek out an agreement. Should their effort fail, the Council would itself fix the guarantees which in its opinion should be inserted, by means of an amendment, in the Autonomy Law of May 7, 1920. And in any case, the Council of the League of Nations will see to the enforcement of these guarantees.

5. An international agreement in respect of the non-fortification and the neutralisation of the Archipelago should guarantee, to the Swedish people and to all the countries concerned, that the Aaland Islands will never become a source of danger from the military point of view. With this object, the Convention of 1856 should be replaced by a broader agreement, placed under the guarantee of all the Powers concerned, including Sweden. The Council is of opinion that this agreement should conform, in its main lines, with the Swedish draft Convention for the neutralisation of the Islands. The Council instructs the Secretary-General to ask the Governments concerned to appoint duly accredited Representatives to discuss and conclude the proposed Treaty.⁵⁵

The above resolution of the League Council (which was passed on June 24th, 1921) incorporates all the main principles which the Rapporteur considered were essential to a fair and lasting settlement of the Aaland Islands Question. It was at a meeting of the League Council held on June 23rd, 1921, that Mr. Fisher (Rapporteur) suggested that "There were three points to be considered":

(1) It must be recognised that the Aaland Islands should remain under Finnish sovereignty.

⁵⁵Ibid.

(2) The existing guarantees possessed by the Islanders must be strengthened, in order that their language may be preserved, that their landed property may be secured, that their franchise may be protected by a restriction of the rights of immigrants, and that Governors may be appointed possessing the confidence of the Island population. The best course would be for the parties to settle this question of guarantees in consultation with one another, assisted by representatives of the Council. Failing an agreement between the parties, the Council, in his opinion, would itself be called upon to define the guarantees.

(3) The military neutralisation of the Islands must be assured in such a way that no danger to Sweden could be threatened from this quarter. For this purpose, the Convention of 1856 would have to be replaced by a more comprehensive agreement, which might follow the lines of the draft Swedish Convention for the neutralisation of the Islands already submitted to the Council.⁵⁶

It would be false to suggest that the Rapporteur's suggestions as stated in the above statement were the exclusive product of his independent thinking. For instance, with regard to the claim of Finnish sovereignty over the Aaland Islands, there is no doubt that he must have taken into consideration the powerful legal arguments posed by Finland and the weight of the statements of both the International Commission of Jurists and the Committee of Rapporteurs. But, it was the Rapporteur who made the decision, and recommended it to the Council, that Finland would retain sovereignty over the Aaland Islands. This was not an easy decision as it seemed to deny the Aaland Islanders (who were supported by Sweden) the right to self-determination—a principle which was widely accepted and respected in international politics then. With respect to guarantees to the Aaland Islands'

⁵⁶League of Nations, Minutes of Council, Vol. 13, 1921, p. 38.

population, the issue was so difficult and resisted by the two parties to the dispute that a final settlement of the dispute by the League Council had to be postponed to allow the parties to enter into private conversations. These negotiations were held under the chairmanship of M. Paul Hymans,⁵⁷ who had had much experience in such negotiations from the Vilna Dispute. Finally, the question of the neutralization and non-fortification of the Aaland Islands was important, especially from the point of view of Sweden's concern for her security. All these recommendations by the Rapporteur were formally presented to the League Council in the form of a Draft Resolution by the Rapporteur to the League Council in the evening of June 24th, 1921.⁵⁸ The League Council unanimously adopted the resolution without change. It is important to note that the unanimous adoption of a Rapporteur-introduced Resolution was not necessarily automatic. This will be discovered, for instance, in the Hungarian Optants (1927-28) Dispute (see section (5) below).

⁵⁷It is quite interesting to note that the Rapporteur of the Aaland Islands Question (H. A. L. Fisher) had to appoint another representative (Paul Hymans) to mediate directly between Sweden and Finland. In the Vilna Dispute (see next section) Paul Hymans was the Rapporteur and he presided over all mediation sessions. The question is: Why could not Fisher do his own mediation in the Aaland Islands Question? It has already been suggested that the answer may be related to the doubtful British neutrality in the dispute.

⁵⁸League of Nations, Minutes of Council, Vol. 13, 1921, pp. 41-42.

(v)

In the Aaland Islands Question, the procedure that was followed to settle the dispute was that of Rapporteurship within the League Council meetings. That took the form of public statements by the representatives of Sweden and Finland; the appointment of the International Commission of Jurists for an Advisory Opinion; the appointment of a Committee of Rapporteurs in place of direct mediation by the Rapporteur; and the League Council's discussions and resolutions based on the Rapporteur's reports and recommendations.

The Aaland Islands Question was the first dispute in which the Special Rapporteur was ever put to use by the League Council. Perhaps because of that, no one would have expected the technique to work smoothly from the beginning. Even allowing for this, there appeared from the outset certain peculiarities or irregularities which need to be noted. These related to the British representative's assumption of the Rapporteurship for the dispute, and the subsequent procedures followed in the dispute.

First, it seemed peculiar that Mr. A.J. Balfour should show such precipitous readiness to step down from the Presidency of the League Council in order to become Rapporteur for the dispute on July 9th, 1920. In fact, he seemed so anxious about it that he did not wait till after the initial remarks of the parties for appointment. Normally, the Rapporteur was to be appointed immediately after the opening statements by the parties. There was a good reason for that. Until the

League Council had heard the parties' opening statements, the Council was really not in a position to decide whether the dispute was within its jurisdiction to settle. The opening statements of the parties enabled the Council to determine its competence in dealing with the dispute and to determine the procedures for settlement. There would have been no point in appointing a Rapporteur for a dispute which was outside the League Council's competence to handle. Certainly, as the man who first introduced the Rapporteur technique into the League Council and in view of the fact that the Aaland Islands Question was the first real test of the Rapporteur technique, it was probably fair for him to be the first in the breach. But his remarks during the Fifth Session of the Council in Rome seem to suggest that he had grown cool to the Rapporteur idea as it had originally been conceived, so it seemed rather puzzling that he would be so anxious to take on the Rapporteurship of the Aaland Islands dispute.

Probably, the best explanation for Balfour's behaviour lies in the special interest that the British Government attached to the problem of the Aaland Islands. Great Britain did not submit the dispute to the League Council merely to exercise her "friendly right," although that was the reason stated, but because she was vitally interested in the outcome of the dispute. The British Government had both strategic and economic interests of her own in the Baltic area.⁵⁹ There is some evidence too that Great Britain's interests would probably have been

⁵⁹ Francis Kellor and Antonia Hatvay, Security Against War (New York: The Macmillan Company, 1924), p. 297.

served by a decision that was favourable to Finland.⁶⁰ But, such a decision would not only have antagonized Sweden against Britain, it would also have been incompatible with the much popularized principle of self-determination, which would have denied the Aaland Islands population their right to self-determination. That predicament would have been sufficient for a British Representative, acting as Rapporteur for the dispute, to avoid direct mediation between the states. That is to say, Great Britain was probably not prepared to incur the diplomatic wrath of Sweden by seeming to support Finland—although it was in her interest to do so if she was to maintain her timber and butter trade with Finland. On the other hand, she did not want to lose the latter by seeming to side with the cause of the Aaland Islanders in the name of self-determination. This dilemma for Great Britain would probably have been avoided if a Rapporteur from a more neutral state had been

⁶⁰Ibid. In one of his many letters to his wife from Geneva, H.A.L. Fisher tells of a dinner in a villa outside Geneva, which was attended by him and a number of his Council colleagues, including "old Branting the Swede, who sat next to me at dinner," who was in a state of "gloom because I had given the Aaland Islands case to Finland." See, The Fisher Papers, Box 6, Letters to Mrs. Fisher from Geneva. A statement by Lord Robert Cecil seems to contradict Fisher's statement. "The Aaland Islands ought to be alright with careful handling though it may be necessary to take a firm line with Finland. These new States must be taught their proper place." Private letter from Lord Robert Cecil to H.A.L. Fisher dated September 24, 1920. See, The Fisher Papers, Box 1: Letters to H.A.L. Fisher, A-J.

There is, however, reason to believe that Great Britain did not want to lose her timber and butter trade with Finland. See, League of Nations, Document 11/468/468: Aaland Islands, for a slightly contrary view—an Anglo-American view—that the Aaland Islands should be placed under a joint Swedish-Finnish Protectorate.

appointed, but there was no guarantee that such an individual would have acted in the best interests of Great Britain. Thus, Great Britain found herself stuck with an uncomfortable Rapporteurship which she could not entrust to anyone else.

Despite the clear indication that Great Britain had reason to be interested in the outcome of the dispute, there is no evidence that either Arthur J. Balfour or H.A.L. Fisher ever received any instructions from the British Government as to how they were to handle the dispute (as British representatives). They both seem to have worked very closely with the League Council and all their activities and pronouncements on the dispute seem to have demonstrated their faith and loyalty to the League of Nations. However, their cautious approach to mediation—if not avoidance—reflected an undoubted awareness on their part of the need to balance the requirements of the parties to the dispute and the interests of the other powers, particularly those of Great Britain.

3. The Vilna Dispute (1920-23)⁶¹: Middle Power v. Small Power

(i)

This dispute between Poland and Lithuania arose as a result of a decision made on December 8, 1919, immediately after World War I by the Principal Allied and Associate Powers which had designated the "Curzon Line" as a provisional frontier between Poland and Lithuania.⁶² However,

⁶¹This was one of the first disputes the League Council ever faced, in which a Middle Power and a Small Power were parties.

⁶²League of Nations, Official Journal, Special Supplement No. 4, December, 1920: Documents concerning the Dispute between Poland and Lithuania, pp. 64-65. See also Official Journal, December, 1920, Annex A.

the circumstances of Lithuania's creation, including certain bilateral arrangements and agreements with Russia,⁶³ on the one hand, and the continuing war between Poland and Russia, on the other, made the actual drawing of the boundary line on the ground very difficult. In particular, a dispute between Poland and Lithuania developed over the ownership of the city of Vilna on the western side of Lithuania. Not only did Lithuania consider the city to belong to her but she claimed it as her traditional capital.⁶⁴ Poland, which had captured the city and the surrounding countryside, did not seem to have any intention of abandoning the city.

Violent skirmishes between the opposing armies had occurred frequently on this undefined border. An attempt to settle the dispute by the two governments through direct negotiations had failed.⁶⁵ Poland therefore placed the problem on the Agenda of the Council of the League of Nations on September 8, 1920.⁶⁶

⁶³Russo-Lithuanian Treaty of Peace, signed in Moscow on July 12, 1920. See League of Nations, Official Journal, December 1920, Annex A, p. 11 (or, League of Nations, Document 11/6767/6596 (20/4/255): The Dispute Between Lithuania and Poland, Memorandum by the Secretary-General.

⁶⁴The history of Lithuania as a political entity shows that at some point in time it became a completely independent state, while at other times it was part of either Poland or Russia.

⁶⁵League of Nations, Official Journal, Special Supplement No. 4, op. cit., p. 12.

⁶⁶League of Nations, Document M.90/4/246 (11/6596/6596), as well as Document 20/4/248 (11/6663/6596).

(ii)

On the 16th September, 1920, the representatives of Poland and Lithuania—Paderewski and Professor Valdemar, respectively—delivered their opening statements.⁶⁷ According to M. Paderewski, who reiterated a previous communication of his Government's Foreign Minister, Prince Sapieha, there was danger of war between Poland and Lithuania because the latter state's troops were occupying certain portions of the area assigned to Poland by the December 8th, 1920, "Curzon Line" declaration.⁶⁸ Lithuania's representative, Valdemar, declared that his Government considered that the Declaration of the Supreme Council of December 8, 1920, creating the provisional boundary between Poland and Lithuania, "was not legally binding upon the Lithuanian Government."⁶⁹ In fact, he argued, that "under a treaty of peace concluded by the Lithuanian Government on the 12th July, 1920, with the Government of the Soviets, another line had been partially fixed, a line which was to have been completed under the Treaty by an agreement to be concluded between Lithuania and Poland."⁷⁰ As a matter of fact, at the time of that Council discussion, the two countries were in direct contact, at a

⁶⁷It was during the second private meeting of the Ninth Session (September 16-20, 1920) of the Council which was held on the first day.

⁶⁸League of Nations, Document M.20/4/76 (11/7743/1596): Report Presented by the Secretary-General on the Carrying out of the Council's Resolution, dated 20th September, 1920, with regard to the Polish-Lithuanian Dispute.

⁶⁹League of Nations, Official Journal, October 1920, p. 397.

⁷⁰Ibid.

conference, attempting to settle just that problem. However, despite what Valdemar had just said, Paul Hymans considered that "the immediate intervention of the Council appears to have been necessary in order to obtain the provisional acceptance by Lithuania and Poland, reserving all their rights, of a line of demarcation of the zones of occupation."⁷¹

Immediately after the opening statements of the two representatives of Poland and Lithuania⁷² on September 16, 1920, the League Council appointed Paul Hymans, the Council Representative of Belgium, as the Rapporteur for the Vilna Dispute. His appointment as Rapporteur for this particular dispute was puzzling in view of the fact that France had very close ties with Poland, and Belgium was hand-in-glove with France.⁷³

The very close relations between France and Belgium (which probably should have disqualified the Belgian Representative as Rapporteur for the Vilna Dispute) were very clear in certain statements made by Sir George Grahame, British Ambassador to Belgium at the time. In a letter to the British Foreign Secretary, dated September 29th,

⁷¹Ibid.

⁷²As Lithuania was not a member of the League of Nations she agreed to sit in the Council discussions as provided under Article 17 of the Covenant—for the purposes of the dispute.

⁷³The Chamberlain Papers, AC 50/249: Statement by the Secretary of State for Foreign Affairs made at the Imperial Conference, October 1926. At one point, Sir Austen Chamberlain said that "Belgium, nervous, irresolute and vacillating, was being dragged at the heels of France," p. 2.

1920, he says at one point that "Belgium is, in their [French] minds, cast for an ancillary role in connection with the development of an imperialistic French Policy." Sir George Grahame then continues in the same letter, with particular reference to Paul Hymans that:

Certain acts on the part of the Belgian Government during the previous few months which may seem to have shown a marked dependence on France may probably be ascribed rather to the personal policy and ascendancy of M. Paul Hymans in the Ministry.⁷⁴

One would have thought that, in view of the League Council's custom of appointing as Rapporteur an individual whose government was considered neutral in a dispute, a more neutral Rapporteur would have been appointed.

Between September 16th and 20th, 1920, Paul Hymans prepared a report for the League Council on which the latter based its important resolution of September 20, 1920, which ordered "the immediate cessation of hostilities," and both parties to accept provisionally "the frontier fixed by the Supreme Council of the Allies in its declaration of the 8th December, 1919," pending direct negotiations between the two states with the help of a Council Committee⁷⁵ and a Military Com-

⁷⁴Lloyd George Papers, F/49/S/2.

⁷⁵League of Nations, Official Journal, October, 1920: Report Presented by the Belgian Representative M. Paul Hymans, and Adopted by the Council of the League of Nations, p. 398. The "Council Committee" referred to was not the same type of committee as a "Committee of Rapporteurs" as, for instance, the Committee of Rapporteurs in the Aaland Islands Question. The chairman of the "Council Committee" was the President of the League Council, and its function was to appoint a Military Commission of Control, and not to mediate the dispute.

mission of control.⁷⁶ These measures were expected to lead to a solution of the basic problems before the League Council:

- (1) To stop hostilities between Poles and Lithuanians, and for this purpose to trace a line of demarcation in the region of Suwalki,
- (2) To assure the neutralisation of the territory occupied by Lithuanians in the dispute between Poland and the Bolsheviks, the Lithuanians promising to obtain complete evacuation of this territory by the Soviet troops, on condition that the Poles should also withdraw.⁷⁷

(iii)

The specific concern of this study are the activities of the Rapporteur after the September 20th, 1920, Council Resolution. The reason for this is that before that date there was a non-ceasefire situation in which sporadic outbreaks of fighting made any meaningful mediation by the Rapporteur difficult, thus placing all effective control in the hands of the Council Committee.⁷⁸

⁷⁶League of Nations, Official Journal, December, 1920: Report Presented by the Secretary-General on the carrying out of the Council's Resolution, dated 20th September, 1920, with regard to the Polish-Lithuanian Dispute, p. 14.

⁷⁷Ibid.

⁷⁸The Council Committee was composed of M. Bourgeois of France (President of the Council), Quinones de Leon of Spain and the Japanese Representative, M. Mihura. Its function was to effect a ceasefire, and to appoint a Military Commission of Control. This activity was different from that of peaceful settlement, which would have been expected to be resumed only after and under conditions in which hostilities had ceased. It was therefore the Council Committee on the Vilna Dispute which contacted the Polish and Lithuanian delegations only with a view to arranging a ceasefire and preparing conditions which would be conducive to mediation attempts.

Direct negotiations between Lithuania and Poland were held in Kalvaria and Suwalki between September 20th and October 7th, 1920, which again kept the Rapporteur temporarily out of the picture. Unfortunately, the direct negotiations between Poland and Lithuania which had ended in substantial agreement on a number of sensitive areas, including a ceasefire, a provisional line of demarcation and the neutralization of the territory occupied by Lithuania east of the provisional frontier line, were soon to be rendered inoperative by the activities of the Polish General, Zeligowski. For, on October 8th, a day after the Suwalki Agreements, General Zeligowski, with an army of 20,000, invaded and immediately occupied the city of Vilna, with the knowledge and authorization of the Polish High Command, notwithstanding Poland's initial denials. Evidence of the Polish Government's complicity is suggested by the fact that Zeligowski's army was increased from 20,000 to 50,000 by Polish regulars; the Polish command furnished Zeligowski with supplies; ammunition and machine guns were also supplied; and there was no reprimand for Zeligowski's action.⁷⁹

This occupation of the Vilna Area by General Zeligowski's Army made the situation even more confused. To meet this new challenge, the League Council, on October 28th, 1920, passed a Resolution recommending that a plebiscite be conducted in Vilna to determine the wishes of the population. Both Poland and Lithuania gave qualified acceptance of the recommendation for a "public expression of opinion," but because

⁷⁹Kellor and Hatvay, op. cit., p. 251.

General Zeligowski would not cooperate, by February 1921 the League Council had abandoned the idea of a plebiscite for Vilna.

By the second quarter of 1921, however, perhaps owing to the intervention of the League Council, hostilities had been reduced drastically for several months.⁸⁰ This situation provided the League Council the opportunity to recommend that:

Direct negotiations on equal terms, to be opened between them [Poland and Lithuania] at Brussels, within a month, under the presidency of M. Hymans, in order to arrive at an agreement which should settle all territorial, economic and military questions in the dispute between the two countries.⁸¹

The Brussels Conference between Poland and Lithuania under the Rapporteurship of Paul Hymans took place on April 20th to June 3rd, 1921.⁸² Before the Conference could be convened, however, correspondence between the parties and the Rapporteur occurred. The previous Council directive of March 3rd, 1921 for direct negotiations had been "accompanied by certain conditions relating to the provisional status of the territory under dispute," which were to be observed pend-

⁸⁰Statement by H.A.L. Fisher during the Twenty-First meeting of the Thirteenth Session of the Council of the League of Nations, Official Journal, September, 1921, p. 76.

⁸¹Ibid., Report by M. Hymans on the Conference of Brussels, April 20 - June 3, 1921, p. 769. The whole report is found on pp. 769-775.

⁸²Most of what follows is based on Paul Hymans' Report to the League Council of June 28th, 1921, during the Twenty-First meeting of the Thirteenth Session. See also League of Nations, Official Journal, September, 1921, pp. 766-775.

ing the result of the negotiations.⁸³ These conditions included:

1. Regaining control over General Zeligowski;
2. Reduction of Zeligowski's men to 15,000;
3. No reinforcement of Polish regular troops;
4. Withdrawal to the interior of all Lithuanian covering troops in excess of two divisions;
5. Lithuania to furnish food supplies and seed corn to the civil population of Vilna and its territory, these being distributed under the League's Military Control Commission;
6. Temporary maintenance of the present local administrations;
7. Unless authorized by the Rapporteur, no election to take place in the territory under dispute before the signature of the agreement.

Although Lithuania expressed reservations to Paul Hymans on March 12th over numbers "3" and "5," and Poland also expressed certain reservations by letters dated March 14th and March 19th, 1921, Paul Hymans not only overruled their objections, but urged the "two governments to send delegates, furnished with full powers, to Brussels on April 18th" to discuss both "the provisional status of the territory under dispute," and the main question at issue. Both accepted. The significance of this was the apparent authority with which the Rapporteur was able to obtain the compliance of the two states. The Rapporteur had, of course, indicated his willingness to have the subject of their reservations dealt with first at the Conference, which may have been the main reason for the compliance

⁸³ Ibid., p. 769.

of the two States, but, even if that were so, it should not be allowed to minimize the significance of the Rapporteur's independent decision and authoritative directive.

After quickly disposing of the preliminary questions, the Brussels Conference which was held from April 20th to June 3rd, 1921, entered into substantive discussion on (1) the Polish-Lithuanian territorial question, and (2) the future of Polish-Lithuanian relations. The discussions reached substantial agreement, in principle, on the need for understanding between Poland and Lithuania in military cooperation, close economic relations and some joint action in the field of foreign policy. On the question of Vilna, however, the Polish and Lithuanian Delegations submitted "two entirely irreconcilable views," which forced Paul Hymans to propose "a scheme for an agreement which might serve as a basis for discussion of all questions submitted to the Conference."⁸⁴ Paul Hymans' proposed scheme⁸⁵ was comprehensive, based on "the idea that the territorial question and the question of understanding between the two States can only be settled jointly."⁸⁶ It was also a scheme which was "in accordance with the views of the Great Powers which are most interested in the settlement of the dispute."⁸⁷

⁸⁴Ibid., p. 773.

⁸⁵League of Nations, Official Journal, September, 1921, Annex B, p. 781.

⁸⁶Ibid., p. 773.

⁸⁷Ibid.

On May 25th, 1921, Paul Hymans invited the two Delegations to inform him in writing whether they had accepted his compromise scheme as a basis for discussion. Lithuania accepted the proposal, while the Polish Delegation made its acceptance conditional upon the proviso that:

... if the population of Vilna and its territory agreed, and that, consequently, negotiations could not be continued unless representatives of the population concerned took part in them on a footing of equality.⁸⁸

This had a stunning effect on Paul Hymans. As President of the Conference and Council Rapporteur, he summarized the new development in these words:

At the meeting of May 30th, I pointed out that this entirely new request, made after several weeks of negotiations, was in conflict with the Council's Recommendations of March 3rd last, which contemplated a settlement of the dispute by direct negotiations between the two states, and also in conflict with the terms of the telegram in which Prince Sapieha had accepted, without reserve, my invitation to send a Delegation to Brussels on April 18th. Even supposing that it would be possible to arrange for representation by plenipotentiaries, not belonging to a Government, but to a population without any political organization, it was not within my power, as President, to admit a third party to the negotiations without the consent of both parties. It proved impossible to reach an agreement either on the basis of the Polish request, or upon my suggestion that notables from the Vilna district, selected in equal numbers by the Poles and Lithuanians, should be heard as witnesses. There was therefore no course open to me but to suspend negotiations and to refer the matter to the Council.⁸⁹

⁸⁸Ibid.

⁸⁹Ibid.

The reference of the matter to the League Council effectively ended Paul Hymans' mediation efforts outside the League Council.

Further attempts at mediation by the Rapporteur were intermittently tried later but without much success.⁹⁰ The Rapporteur's activities outside the Council meetings were to be replaced by discussions in the Council.

To illustrate the central role the Rapporteur played in the Council meetings on this particular dispute, brief references will be made to one of the Council Resolutions during the Thirteenth Session of the League Council held in Geneva from June 17th to 28th, 1921. Before the Council passed this particular Resolution it heard a report from the Rapporteur in which he recommended, among other things, that (1) Zeligowski's troops get out of Vilna; (2) that formation of a local police unit of 5,000 be instituted; (3) that officials not local to Vilna be gradually withdrawn by July 15th, 1921; (4) that Lithuanian troops be allowed to reoccupy their positions before September 1st, 1921; (5) that consular relations between Poland and Lithuania be established; and (6) that further direct negotiations between the two states under the chairmanship of the Rapporteur and within the terms

⁹⁰League of Nations, Official Journal, June 1921, p. 541. Also, ibid., September, 1921, p. 775, when the Rapporteur announced that the first "negotiations should be regarded as adjourned." See also, ibid., Annex E: Resolution Adopted by the Council on June 28th, 1921, in which, among other things, the League Council directed that the "Adjourned" Brussels negotiations were to be continued later.

of his recommendations to the League Council, be held.

On June 27th, 1921, at its eighteenth meeting, the League Council "unanimously thanked M. Hymans for the work he had accomplished at Brussels, and adopted his agreement as a basis for the discussion and solution of the dispute."⁹¹ The Council statement had been preceded by a statement by the Polish Delegate—Askenazy—in which he had stated:

[W]e desire to pay a sincere tribute to the energetic and skillful manner in which he has directed our debates, and above all, to the wisdom, the impartiality, the conciliatory spirit, and not least, to the genius for compromise, to which we owe his preliminary scheme. These are, indeed, qualities worthy of a statesman, of a good European worthy, in short, of the League of Nations.⁹²

As Paul Hymans had said later, although no final agreement had been reached at that point in time, at least, "the Council had kept the peace between Poland and Lithuania for twelve months."⁹³

⁹¹ League of Nations, Official Journal, September, 1921, p. 764. When the League Council, in turn, gave its Report to the Assembly of the League later, the Assembly expressed "its warm appreciation of the skill and patience displayed by M. Hymans in the cause of peace." See, League of Nations, Special Supplement, No. 6, October, 1921: Resolutions and Recommendations adopted by the Assembly during its Second Session (September 5th, 1921, to October 8th, 1921). The Resolution was passed and adopted on September 16th, 1921 as Document M.20/4/76.

⁹² League of Nations, Official Journal, September, 1921, Annex C, p. 781.

⁹³ League of Nations, Official Journal, February, 1922, p. 100.

(iv)

In concluding his long Report to the twenty-first meeting of the Thirteenth Session of the Council of the League of Nations concerning his mediation efforts outside the League Council, Paul Hymans stated that he "saw no course open to me but to suspend negotiations and refer the matter to the Council."⁹⁴ In re-submitting the question to the League Council, the Rapporteur also made recommendations for the settlement of the dispute which were identical to the scheme he had presented to the parties in Brussels.⁹⁵ These proposals by Hymans were unanimously adopted by the League Council in a resolution of June 28th, 1921.⁹⁶

There was no immediate settlement of the Vilna dispute even after the League Council's resolution. In fact, there was even a second phase of the dispute in 1927-28 for which the Rapporteur became B. van Blokland of Belgium. The latter phase of the Vilna dispute is, however, not the concern here because the dispute was removed from the Council's agenda when the states agreed to engage in direct negotiations on their relations. It is, however, important to note that although there was no immediate settlement of the substantive issues of the dispute, the attempted settlement had been conducted peacefully.

⁹⁴League of Nations, Official Journal, September, 1921, Annex A, p. 774.

⁹⁵Ibid., p. 773, and Annex B, p. 781.

⁹⁶Ibid., Annex E, p. 784.

(v)

188 In the Vilna Dispute the League Council was presented with a difficult dispute in several senses,⁹⁷ and yet it was able to put into motion all the necessary procedures pertaining to pacific settlement as envisaged in their original mandate, including mediation.

The incidence of violence in the dispute was partly overcome.⁹⁸ The appointment of Paul Hymans as Rapporteur had cast some doubts about his neutrality or impartiality because of France's open support for Poland, and Belgium (of which Paul Hymans was Minister of Foreign Affairs) was clearly under the strong influence of France. But his skilful Rapporteurship more than offset those doubts.

However, the fact that no final agreement had been reached between Poland and Lithuania during the period of Paul Hyman's Rapporteurship indicates certain limits to the power of Rapporteurs in international politics. First, there seemed to be no way the Rapporteur could completely insulate the dispute from the influence or interference of the Great Powers like France. It was probably impossible to really keep the Great Powers out as the very existence of Poland was the result of the action of the Great Powers (as the Principal Allied Powers

⁹⁷ There had been violence; a Great Power was indirectly involved; survival, honour and regional dominance were at stake, and there was lurking on the sidelines the shadow of a Great Power which was not a member of the League of Nations—Russia.

⁹⁸ The League of Nations was not able to dislodge General Zeligowski's army from the Vilna district.

or Supreme Council) after World War I. As long as France's support for Poland was lurking in the background, the likelihood that Poland would make certain necessary compromises or concessions was limited. This may explain, also, the intransigent behaviour of General Zeligowski's troops in the Vilna area, which in turn may have contributed to the final stalemated outcome of the dispute.

With regard to the rank status of the Powers vis-à-vis each other, it may be appreciated that there was nothing that the Rapporteur could do to curb or deny Poland her traditional regional aspirations, and her suspicions of Lithuania's possible collusion with Russia. On the other hand, Lithuania's survival and honour as a state seemed to her to be at stake, and dependent on a strict and literal interpretation of the "Curzon Line" demarcation of her border with Poland, and the maintenance of the status quo with Russia. Having failed to persuade Zeligowski and his troops to leave Vilna, Lithuania could not be persuaded to compromise further. Thus, no final agreement between Poland and Lithuania had been reached at that stage.

It is essential, however, to recognize the Rapporteur for what he actually was: a link, or a facilitative instrument in the League Council's conciliation machinery for inducing parties to a dispute to arrive at peaceful solutions to their disputes. Rapporteurship was not meant, and should not be looked upon, as a complete replacement of the other traditional methods of settling disputes. In the Vilna Dispute, Rapporteurship proved useful and effective in mediation efforts and

enabled the League Council to make recommendations based on the Rapporteur's reading of the problem.⁹⁹

4. The Hungarian Optants (1923) : Small Power v. Small Power

(1)

This dispute between Hungary and Roumania, both Small Powers, was first reported to the League Council by Hungary on March 15th, 1923.¹⁰⁰ The dispute concerned the alleged expropriation by Roumania of the immovable property (land) of those Hungarian peoples who, after the end of the First World War and the Peace Settlements, were resident in Transylvania, but who at the same time had opted for Hungarian nationality. The dispute itself had been triggered by the publication of the Roumanian Agrarian Reform Law of 30th July, 1921.¹⁰¹ Hungary accused Roumania of having used her Agrarian Reform Act to expropriate the properties of the Hungarian Optants in violation of her international obligations.¹⁰²

⁹⁹Still open to the Council's recommendations were Arbitration or Judicial settlement.

¹⁰⁰League of Nations, Document C.244. 128. M. 1923. i: Request by the Hungarian Government.

¹⁰¹After the break-up of the old Austro-Hungarian Empire at the conclusion of World War I, Roumania emerged as an independent state. Hungarians who found themselves within Roumanian territory—mainly in Transylvania—were given the option of either taking up Roumanian citizenship or opting for Hungarian nationality. Most Hungarians in Transylvania opted for Hungarian nationality—thence the term "optants."

¹⁰²League of Nations, Document C.244. 128. M. 1923. i: op. cit.

This "Agrarian Law applicable to Transylvania, the Banat, the districts of the Crisomov and the Maramuras,"¹⁰³ provided, among other things, for the expropriation of property on grounds of absenteeism (Article 6). Circumstances connected with the First World War which resulted in the break-up of the old Austro-Hungarian Empire and the creation of Roumania as an independent State had made the Hungarians of Transylvania the largest absentee group who would therefore be the hardest hit by the Agrarian Reform Law.

To Hungary, the Roumanian Reform Law was not only a discriminatory piece of legislation directed against Hungarian peoples who had opted for Hungarian nationality, but was a violation by Roumania of her international obligations. The Treaty of Trianon,¹⁰⁴ signed between Roumania and the Principal Allied and Associated Powers (Article 63) had stipulated that those Hungarians in Roumania who had opted for Hungarian nationality would retain their immovable property in Roumania. The exact wording of Article 250 of the Treaty of Trianon states:¹⁰⁵

Notwithstanding the provisions of Article 232 and the annex to Section IV the property, rights and interests.

¹⁰³Roumani, Monitosul Official, No. 93.

¹⁰⁴Treaty Series No. 10 (1920): Treaty of Peace Between the Principal Allied and Associated Powers and Hungary at Trianon, June 4th, 1920.

¹⁰⁵Extract from the Official Report, House of Lords: Rumania and the Mixed Arbitral Tribunal, 17th November, 1927. (H. M. Stationery Office, 1927.)

of Hungarian nationals or companies controlled by them situated in the territories which formed part of the former Austro-Hungarian Monarchy shall not be subject to retention or liquidation in accordance with these provisions.

Such property, rights and interests shall be restored to their owners freed from any measure of transfer, compulsory administration or sequestration, taken since November 3, 1918, until the coming into force of the present treaty, in the condition in which they were before the application of the measures in question.

By expropriating the land of the Hungarian Optants the Roumanian Government was not only breaking its international treaty obligations, but she was placing Roumanian Municipal Law above international law.¹⁰⁶

Representations to the Roumanian Government by the Hungarian Government were of no avail. The Hungarians were therefore left with no choice but to approach the Conference of Ambassadors¹⁰⁷ on August 16th, 1922.

The latter, on two occasions (31st August, 1922 and 27th February, 1923), told Hungary to take its case to the League of Nations. Thus, on March 15th, 1923, Hungary appealed to the League Council.¹⁰⁸

¹⁰⁶The problem whether or not the Roumanian Agrarian Reform Law was a violation of international law (i.e., a case of Roumania placing its Municipal laws above international law) became an important point of debate in the House of Lords on 17th November, 1927. See No. 63184, "Extract from Official Report": Roumania and the Mixed Arbitral Court (London: H.M. Stationery Office, 1927), pp. 1-10.

¹⁰⁷League of Nations, Official Journal, July, 1923, pp. 729-735.

¹⁰⁸League of Nations, Document C. 244. M. 128. 1923. i: Request by the Hungarian Government.

(ii)

On April 20th, 1923, the League Council heard the details of the dispute brought against Roumania by Hungary. Hungary charged that the Roumanian authorities had violated international law and the rights of the Hungarian residents of Transylvania who had opted for Hungarian nationality by the passing and implementation of the Roumanian Agrarian Reform Law, which had resulted in the sequestration of those peoples' immovable property. Roumania, on the other hand, countered by the argument that the Agrarian Reform Law was applicable to all residents and nationals of Roumania, and that exempting the Transylvanian Hungarians from that Law would leave them the most privileged class in Roumania. Immediately after M. Lukacs and M. Titulesco, Representatives of Hungary and Roumania, respectively, had made their opening statements of their cases, a Rapporteur was appointed for the dispute by the League Council. He was M. Adatci of Japan. His specific duty was "to prepare material for a fresh discussion of the question of the Hungarian Optants."¹⁰⁹ In its resolution the League Council "expressed the hope that before the next session the governments of Hungary and Roumania would do their best to arrive at an agreement."¹¹⁰ This was the signal for the parties to try to enter into some direct negotiations

¹⁰⁹ League of Nations, Document 11/28657/28470: Expropriation by the Roumanian Government of the Property of Hungarian Optants: Report by M. Adatci (June 6th, 1923), p. 1.

¹¹⁰ Ibid.

with one another, with the assistance of the Rapporteur. In the words of the Rapporteur:

I invited the representatives of the two Governments concerned—Count Esaky and M. Gálzago on behalf of Hungary, and M. Titulesco on behalf of Roumania—to meet at Brussels on May 26th.¹¹¹

(iii)

Private conversations under the Rapporteurship of Mr. Adatci began on May 27th, 1923, in Brussels. The substance of the dispute was tackled point by point. It would appear that substantial, if not complete, agreement was reached on the five main points at issue. There was no disagreement on the issue that the Treaty of Trianon did "not preclude the expropriation of the property of Optants for reasons of public welfare, including the social requirements of agrarian reform."¹¹² It was agreed that absenteeism as defined by the Agrarian Reform Law was not identical with the period fixed by the Treaty of Trianon, which made the absence of the Hungarian Optants from their Roumanian lands perhaps inexcusable, at least in terms of the period defined by that law, although Hungary insisted on the legal value of "psychological" and "moral" circumstances responsible for their having transferred their residence to Hungary earlier. No agreement was reached on the amount of compensation due to the Hungarian Optants, the Hungarians arguing that it was "too small" and the Roumanians

¹¹¹Ibid.

¹¹²Ibid.

saying that any higher price would have given the Hungarian Optants "a greater compensation than accorded the Roumanian subjects"; that Article 18 of the Agrarian Reform Law could be modified pending the outcome of the discussions; and that there was no evidence that the rights of the Hungarian Optants were less protected by the new Roumanian State than by the old Kingdom. To which Hungary, at least implicitly, seemed to concur with the argument that the comparison which they had made between the priorities of the Transylvania law and the Agrarian Law of the former Roumania, "was intended solely for reference."¹¹³

However, in spite of the substantial progress which was made at the Brussels Conference, the Hungarian Government decided to reject the conclusions and interpretations of the agreement. In a communication to the Rapporteur dated June 12th, 1923, the Hungarian Minister of Foreign Affairs startled M. Adatci by the statement:

I must express my deep regret at the failure of these negotiations and must inform you that, in view of the vital importance of the question of Optants in connection with the protection of Minorities, which is the most important problem affecting Central Europe, no Hungarian Government can in this matter accept a resolution of the League of Nations if that resolution evades the settlement of the problem.¹¹⁴

¹¹³ Ibid., pp. 3-11.

¹¹⁴ League of Nations, Document 11/29007/28470 (or C. 404. 1923. VII): Expropriation by the Roumanian Government of the Property of Hungarian Optants, June 19th, 1923, pp. 1-2.

The termination of the private discussions were on a more or less inconclusive note. The Rapporteur had failed to persuade Roumania to accept the submission of the dispute to arbitration or for an Advisory Opinion of the Permanent Court of International Justice. The final resolution of the League Council on the dispute at that stage read:

The Council, after examining the report by M. Adatci, dated June 5th, 1923, and documents annexed thereto,

Approves the report;

Takes note of the various declarations contained in the minutes attached to the report of the Japanese Representative, and hopes that both Governments will do their utmost to prevent the question of Hungarian Optants from becoming a disturbing influence in the relations between the neighbouring two countries;

The Council is convinced that the Hungarian Government, after the efforts made by both parties to avoid any misunderstanding on the question of Optants, will do its best to reassure its nationals;

And that the Roumanian Government will remain faithful to the Treaty and the principle of justice upon which it declares that its Agrarian legislation is founded, by giving proof of goodwill in regard to the interests of the Hungarian Optants.¹¹⁵

The practical effect of this resolution was to throw the whole situation back to pre-dispute circumstances, that is, to the handling of the problems of the Hungarian Optants by the Mixed Roumano-Hungarian Arbitral Tribunal—an international body provided under Article 239 of the Treaty of Trianon.

¹¹⁵ League of Nations, Official Journal, September, 1923, Annex A, p. 775,

At a further meeting of the League Council, the Rapporteur declared that the negotiations that he had conducted in Brussels with the Representatives of Hungary and Roumania "were regarded as being completely successful even by the representatives of the two contending Governments."¹¹⁶ In fact, the Rapporteur's intervention and mediation, in this particular case, was probably so successful that a signed agreement had been reached by both parties, although Hungary tried to water down the agreement by charging that her representatives, by placing their signatures to the document, had gone beyond their authority.¹¹⁷ It was this latter circumstance that resulted in the Hungarian Optants' dispute being referred back to the League Council by the Rapporteur.

(iv)

After several meetings on the issue, the League Council finally decided that it (the Council) "could not do better than adopt the text of a resolution drafted in the following terms" by Paul Hymans, which read:

The Council, after examining the report by M. Adatci dated June 5th, 1923, and the documents annexed thereto,

¹¹⁶ League of Nations, Document C. 460. 1923. VII: The Question of Hungarian Optants, Statement by M. Adatci.

¹¹⁷ Hungary stated to the League Council that by signing the Rapporteur's statement embodying the results of the negotiations and the Rapporteur's recommendations, her Representative had "exceeded his full powers." See, League of Nations, Document C. 404. 1923. VII (or 11/29007/28740): Expropriation by the Roumanian Government of the Property of Hungarian Optants.

Approves the report;

Takes note of the various declarations contained in the minutes attached to the report of the Japanese representative, and hopes that both Governments will do their utmost to prevent the question of Hungarian optants from becoming a disturbing influence in the relations between the neighbouring two countries;

The Council is convinced that the Hungarian Government, after the efforts made by both parties to avoid any misunderstanding on the question of optants, will do its best to reassure its nationals;

And that the Roumanian Government will remain faithful to the Treaty and to the principle of justice upon which it declares that its agrarian legislation is founded, by giving proof of its goodwill in regard to the interests of the Hungarian optants.¹¹⁸

The President of the Council was reported to have stated at the end:

"this resolution . . . contained the text originally presented by M.

Adatci." Here again was an instance in which the League Council fully accepted the recommendations of the Rapporteur; in effect, the

Council was insisting that the two parties should accept the Rapporteur's original recommendations now that they had gained the League Council's unanimous approval.

In this dispute, M. Adatci expressed the thought that he had "fulfilled my task by having made every effort, if not to reconcile opposing theses, at least to obtain as full a measure of agreement as possible between the parties."¹¹⁹ In effect, this was a recom-

¹¹⁸ League of Nations, Official Journal, August 1923, p. 907.

¹¹⁹ League of Nations, Document 11/28657/28470, op. cit., p. 1.

mentation that the League Council encourage Hungary and Roumania to settle their dispute peacefully through the existing Roumano-Hungarian Arbitral Tribunal, but with greater emphasis on the "spirit of conciliation, in order to put an end . . . to a state of discontent which had already lasted too long."¹²⁰

This, of course, remained unacceptable to the Hungarian Government, as they insisted that this was "a legal question," and thus they reserved "the right to take any future steps which the treaties and the Covenant of the League of Nations may allow in order to obtain justice for those which it has the duty to represent."¹²¹

(v)

The manner in which the League Council had tackled the Hungarian Optants dispute of 1923 provided an exact model as to how Rapporteurship was expected to function. After the initial submission of the dispute by Hungary, the League Council met in Extraordinary Session, first, to hear the opening statements of the representatives of the parties to the dispute. After those remarks, the Council determined that it was competent to handle the dispute. A Rapporteur was immediately appointed, who was later left to mediate alone between the parties until some agreement was reached. In the meantime, the Council was kept abreast of the developments in the dispute by occasional reports from M. Adatci,

¹²⁰Ibid., p. 908.

¹²¹Ibid.

the Rapporteur.

The outcome of the dispute at that stage (1923) was short of a definite settlement. While Roumania had accepted the final resolution of the Council which amounted to a rejection of the Hungarian request,¹²² the Hungarian Government had not. On the other hand, the Roumanian Government had itself previously rejected the Rapporteur's recommendation that the dispute be submitted to the Court for an Advisory Opinion.¹²³ It was probably a case of Hungary rejecting the Council's final resolution because it had failed to get Roumania to go along with the proposal to submit the dispute to the Permanent Court.

The outcome of the dispute as reflected in the Report of the Rapporteur (M. Adatci) after the private Conferences in Brussels, suggests strongly that the Rapporteur had been successful not only in extracting concessions from the parties, but in obtaining a signed agreement from them.¹²⁴ That is, Rapporteurship in terms of mediation had been a complete success.¹²⁵ However, the fact that the Hungarian Government subsequently renounced the agreement cannot

¹²²League of Nations, Official Journal, August 1923, p. 908.

¹²³League of Nations, Official Journal, June 1923, p. 606.

¹²⁴League of Nations, Document No. 11/2865/28470: Expropriation by the Roumanian Government of the Property of Hungarian Optants, Report by M. Adatci.

¹²⁵League of Nations, Document No. 11/29007/28470: Expropriation by the Roumanian Government of the Property of Hungarian Optants, Note by the Secretary-General. This document includes the letter from the Hungarian Minister of Foreign Affairs to M. Adatci dated June 12th, 1923.

be overlooked entirely, even if it was an action taken after the fact.¹²⁶

In fairness to the Rapporteur, however, there is nothing much that Rapporteurs could do when states chose to renounce what had been agreed to under a Rapporteur. Third party intervention and settlements of international disputes, especially of a mediatory nature, usually lack enforcement provisions, relying instead on the goodwill of the parties themselves.

5. Successful Rapporteurship

Besides the four disputes whose examination has constituted the major portion of this chapter, there were several other disputes between Middle Powers and Small Powers,¹²⁷ and between Small Powers,¹²⁸ but none between Middle Powers.¹²⁹ A summary assessment of the role of the Rapporteur in these remaining disputes in terms of these "power"

¹²⁶Ibid.

¹²⁷Besides the Demir Kapu Incident, the Aaland Islands Question and the Vilna (A) Dispute, there were eight other such disputes: (1) Jaworzina Dispute (1923); (2) Vilna (1927-28) Dispute; (3) The Albanian Frontier Dispute (1921-24); (4) The Koritza Delta Dispute (1924); (5) Szent-Gotthard Incident (1928); (6) Rhodope Forests (1930-34); (7) International Terrorism (1934); and (8) Leticia Incident (1933).

¹²⁸There were three such disputes in addition to the two Hungarian Optants disputes: (1) Burgenland Question (1922); (2) Iraq-Persian Dispute (1934-35); and (3) Chaco Conflict (1928-35).

¹²⁹The Chaco Conflict could probably be considered a Middle Power v. Middle Power dispute. Both powers were more or less of equal military strength, but their regional aspirations were so limited that they both qualify less as Middle Powers.

categories, as well as "force" and "functional" categories used in this chapter, should confirm the general conclusions of the disputes studied in depth.

The following table shows how the seven disputes between Middle Powers and Small Powers were settled.

Middle Powers vs. Small Powers

Dispute	Rapporteur	Nature of Settlement
1. Vilna (B) Dispute (1927-28)	Beelaerts van Blockland	State of war ends, followed by direct negotiations.
2. Albanian Frontier Dispute	Arthur J. Balfour	Negotiations lead to agreement on new frontier.
3. Koritza Delta Question	Arthur J. Balfour	Immediate withdrawal of Greek forces.
4. Szent-Gotthard Incident	Beelaerts van Blockland	Maintenance of the status quo.
5. Rhodope Forests	Anthony Eden	Mediation leads to agreement on Arbitration.
6. International Terrorism	Anthony Eden	Experts asked to draw a Draft Convention on repression of Terrorism.
7. Jaworzina Dispute	Quinones de Leon	Agreement on binding Advisory Opinion.

As the third column in the above table suggests, all these disputes were settled peacefully, and the nature of the settlements were attributable to the work and recommendations of the individual Rapporteurs. That is, where the disputes involved Middle Powers and Small Powers as parties to them, the probability of their being settled

peacefully through the efforts of the Rapporteur, was very high indeed. Explanations for that included the following: (1) that all the disputes had Rapporteurs which increased the possibility that private conversations and mediation between the parties would take place; (2) that the Rapporteurs of the disputes tended to be the representative of the Great Powers, principally those of Great Britain, whose status and prestige might have been a powerful influence in the direction of peace; (3) it may also be added that successful settlement of these disputes was dependent upon the pressures exerted by the Great Powers, presumably in behind-the-scenes operations, which was nothing new in international diplomacy, nor was it necessarily unexpected in League Council settlements; (4) finally, the successful settlement of these disputes lay in the types of disputes in question, as briefly described below.

With regard to the type of disputes in question (p. 199), they all appear to have been relatively minor disputes involving either differences between the parties with regard to ownership of some piece of land¹³⁰ or property,¹³¹ or a disagreement on the exact demarcation of a frontier.¹³² In these kinds of disputes the Great Powers could

¹³⁰Koritza Delta Question; Rhodope Forests; and Jaworzina Dispute.

¹³¹Rhodope Forests.

¹³²Vilna (1927-28) Dispute; Albanian Frontier Dispute; and indirectly, International Terrorism. The terror campaign between Yugoslavia and Hungary was connected with or related to the dissatisfaction with regard to the original frontier between the two countries, and Macedonian irredentism. See League of Nations, Official Journal, June 1934, pp. 682-739; League of Nations, The Monthly Summary, Vol. XIV (1934), No. 11, pp. 248-9, and No. 12, pp. 278-9; Francis P. Walters, A History of the League of Nations (London: Oxford University Press, 1952), pp. 599-605.

legitimately put pressure on the parties because of the original involvement of the Principal Allied and Associated Powers in the delimitation of the boundaries of many European states after World War I. In addition, the direct interest of the Great Powers in these disputes, rendered any differences between the Middle Powers and Small Powers of little consequence. A Middle Power could not use force (even if it had such inclinations) against a Small Power over frontier differences if it was clear that the Great Powers would not tolerate such behaviour. Given these circumstances, what the Rapporteurs proceeded to do was to accentuate the positive elements by using their persuasive abilities.

The only two other remaining disputes in this section were those between Small Powers: (1) the Burgenland Question (1922) and (2) the Iraq-Persian Dispute (1934-35).

The Rapporteur for the Burgenland Question was Paul Hymans of Belgium who, in conjunction with the Secretariat and with the concurrence of the parties to the dispute, reviewed the case,¹³³ after the Conference of Ambassadors had transmitted information and transferred

¹³³ In terms of the Protocol of Venice of October 13, 1921, the Burgenland (in the Sopron District) was awarded to Hungary through a plebiscite, but Austria had objected to the disposition of certain places by the Delimitation Commission. After the matter had been heard by the Conference of Ambassadors, the latter, in agreement with the parties, asked the League Council on June 2, 1922, to recommend a settlement. The League Council transmitted its recommendations to the Conference of Ambassadors on September 19, 1922. See, 9 Treaty Series, p. 203.

the dispute to the Council.¹³⁴ The Rapporteur for the Iraq-Persian Dispute was the Italian representative, Baron Aloisi who, after five months of mediation between the parties in Geneva, recommended to the League Council to drop the dispute from its agenda as negotiations between the parties were proceeding satisfactorily.¹³⁵ From the point of view of the League Council these were minor disputes involving minor powers (Small Powers). Moreover, the disputes involved differences on the respective frontiers which attracted the attention and consequent presence of the Great Powers. Rapporteurs found that mediating the disputes was not a difficult assignment, in the sense that there was no violence to contend with and bringing the parties to the mediating table did not prove to be a problem.

With regard to those disputes in which force was used, there were only two other disputes besides the Demir Kapu Incident. These were the Vilna (1920-21) dispute and the International Terrorism dispute of 1934-35. Like the Demir Kapu Incident, each of the disputes involved a Middle Power and a Small Power,¹³⁶ whose differences were probably responsible for the violence. Poland, a regional power

¹³⁴ Myers, Handbook of the League of Nations, *op. cit.*, pp. 307-8.

¹³⁵ On November 29, 1934, Iraq formally complained to the League Council that Persia had violated the Treaty of Erzerum of 1947 and the Protocol of Constantinople of November 4, 1913. See League of Nations, Monthly Summary, Vol. XIV, December 1934, pp. 286-7, and Vol. XV, the May and September, 1935, Issues.

¹³⁶ Poland and Lithuania, respectively.

with the assured support and encouragement of France seemed intent on controlling the western side of Lithuania, including the city and district of Vilna, at least to the extent that such a hold would deny Russia any strategic or territorial advantages.¹³⁷ Although the specific act of violence in the International Terrorism dispute was the assassination of King Alexander of Yugoslavia, by Georges (a Bulgarian national) in the employ of Ustasa (a terrorist Croat revolutionary society), there had been frequent terrorist activity on the frontier between Hungary and Yugoslavia. Using a committee of experts, the Rapporteur was able to effect a settlement in which political and terrorist conspiracies were suppressed. Although the lion's share of the credit must go to the Rapporteur who was responsible for the overall plans and procedures, the unanimous conclusion of the expert committee that Hungary had played no part in the assassination, contributed in an important way to the satisfactory outcome (see footnote 132 above).

The rest were non-violent disputes, all of which had Rapporteurs for their settlements.¹³⁸ The procedures and outcomes of these disputes followed patterns similar to those encountered in the three disputes

¹³⁷At the time, Poland was at war with the Soviet Union and she (Poland) was not certain of Lithuania's neutrality in that conflict. There was ample evidence, on the contrary, that Russia had access to Lithuanian territory and facilities (e.g., railways) in the conduct of its war against Poland.

¹³⁸The only exceptions were the Chaco Conflict and the Leticia Incident for which a Rapporteur's Committee was appointed in place of a Rapporteur. More on Rapporteurs' Committees in Chapter VI.

studied in depth in this chapter.¹³⁹ It is interesting to note that the settlement of the Albanian Frontier dispute between Albania and Yugoslavia was almost identical to that of the Aaland Islands Question. Not only was the Rapporteur the same British Representative, A.J. Balfour who was the Rapporteur for the Aaland Islands Question, but no mediation between the parties to the dispute by the Rapporteur was ever conducted. Unlike the Aaland Islands Question, though, the need for mediation in the Albanian dispute was circumvented by Yugoslavia's willingness at the first meeting of the League Council to remove her troops, and to evacuate Albanian territory in compliance with the League Council's decision. It may be noted that Sir Austen Chamberlain also used the same tactic in the Demir Kapu Incident.

There were, however, seven disputes, other than the Vilna (1920-21) disputes and the Hungarian Optants (1923) dispute (explored in depth in this chapter), in which Rapporteurship was allowed to run its full course: that is, including direct mediation by the Rapporteur. In four of the disputes clear and unambiguous settlements were recommended by the Rapporteur and accepted by the Council and the parties, without the Council having to re-examine the dispute or take direct charge after the Rapporteur's efforts. These disputes were: the Rhodope Forests dispute between Bulgaria and Greece, for which Anthony Eden's mediation efforts (as Rapporteur) resulted in an arbitration award to

¹³⁹ Aaland Islands Question; the Vilna Dispute; and the Hungarian Optants Dispute of 1923.

Greece; the Jaworzina dispute between Poland and Czechoslovakia was mediated by Quinones de Leon of Spain who succeeded in getting the parties to agree to seek the Advisory Opinion of the Court through the League Council, resulting, ultimately, in the signing of the Polish-Czechoslovak Protocol of May 6th, 1924; in the Burgenland Question between Austria and Hungary, Paul Hymans, the Rapporteur, succeeded in getting the parties to work and cooperate with the Secretariat of the League on a satisfactory solution of the dispute; and, finally, the Iraq-Persian dispute was settled outside the League Council through direct negotiations between the parties after the Rapporteur, Baron Aloisi of Italy, announced such an agreement between the parties on September 28, 1935. All the above disputes originated in disagreements concerning treaties signed after World War I involving the Principal Allied Powers.¹⁴⁰

Finally, like the Vilna (1920-21) dispute studied above, the Koritza dispute between Albania and Greece, the Vilna (1927-28) dispute and the Szent-Gotthard Incident of 1931 between Hungary and the Little Entente states both had Rapporteurs who tried to mediate between the parties.

But the complexity of the disputes and the wide gaps existing between

¹⁴⁰The Rhodope Forests dispute came under Article 181 of the Treaty of Neuilly; the Burgenland Question came under the Protocol of Venice of October 13th, 1921, while the Jaworzina dispute concerned the decision of the Delimitation Commission appointed by the Conference of Ambassadors—the decision rendered on July 28th, 1920 assigned the Jaworzina district to Poland; and, finally, the Iraq-Persian Frontier dispute fell under the Treaty of Erzerum (1847) and the Protocol of Constantinople of November 4th, 1913.


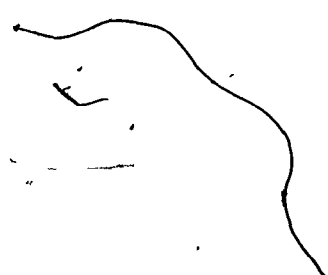
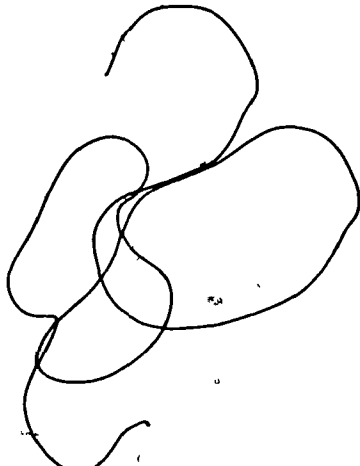
the parties required direct intervention by the League Council as a whole in the sense that the Rapporteurs considered that they had tried everything possible to effect an agreed settlement without success. They then had to turn over the dispute to the Council as a whole. Such actions seemed to have precipitated a dramatic end to the disputes.¹⁴¹

The record does show, unmistakably, that Rapporteurship was successful in disputes involving the Lesser Powers. Not only were there Rapporteurs for all the disputes, except the two South American disputes,¹⁴² but all the disputes were settled peacefully. That is, in none of these disputes did a state resort to violence after the Rapporteur had had an opportunity to mediate between the parties. The most likely reasons for that included the fact that the Rapporteur technique opened the way for compromise and concessions without any state losing face. The availability of the Rapporteur for private discussions between the

¹⁴¹When the Koritza dispute was handed over to the League Council on September 27th, 1924, Greece quickly remarked that she was ordering the evacuation of her troops from the area "expeditiously"; the long festering Vilna dispute suddenly took a new turn when the Rapporteur announced in the Council that the "state of war" had come to an end between the countries, and that the opening of diplomatic relations between the states had resulted in direct negotiations outside the League Council; and finally, that in the Szent-Gotthard Incident the parties accepted the return to the status quo.

¹⁴²Rapporteurship was basically a European institution. The League of Nations tended to restrict its application to disputes within Europe or disputes involving European states. See Chapter VI for the settlement of the Chaco Conflict and the Leticia Incident through Rapporteurs' Committees.

disputing states opened up possibilities for further negotiations between the parties. Even if some of the disputes were not settled outright at the Rapporteur level, the Rapporteur often set the tone for further contacts between the parties outside the League Council.



CHAPTER VI

COMMITTEES OF RAPPORTEURS¹ AND PEACEFUL SETTLEMENT

Upon occasion the Council of the League of Nations made use of Rapporteurs' Committees rather than single Rapporteurs.² In the course of this study brief references have been made to such committees in several disputes,³ including the Aaland Islands Question and the Upper Silesia Question. This chapter explores the role committees played in the settlement of the above mentioned and other disputes handled by the League Council.

For the purposes of this study, these Rapporteurs' Committees⁴ may be divided into three categories: (1) Those committees which were independent experts' usually selected from outside the Council membership; (2) those Committees whose members were drawn from the Council representatives of member states; and (3) Committees coming under the

¹The best study on League Committees is by H.R.G. Greaves, The League Committees and World Order (London: Oxford University Press, 1931).

²These committees were variously referred to as: "Committee of Three," "Committee of Four," or "Committee of Five"—all depending on the number of members of the committee.

³See pp. 120, 161 and 162.

⁴A Rapporteur's Committee referred to a Committee under the Chairmanship of a Rapporteur, or a Committee appointed by the League Council at the recommendation of the Rapporteur, or a Committee appointed by the League Council to do the work usually done by a Rapporteur.

provisions of the Minorities Treaties.⁵

The first part of this chapter discusses the general nature of Committee Rapporteurship. Among the most important questions for which answers are sought are the following: Under what circumstances were Rapporteurs' Committees resorted to? What was the relation between the Rapporteur (if there was one) and the Committee? Were there any distinctive features common to all those disputes in which Rapporteurs' Committees were used? What was the Committee's role in the outcome of the dispute? The second part of the chapter focuses on the Rapporteurs' Committees specially appointed for the settlement of disputes arising within the definition of Minorities Treaties.

(1) Committees of Independent Experts

A good example of the use of independent experts as a Committee of Rapporteurs was in the Aaland Islands Question.⁶ Although this dispute had a single Rapporteur appointed for its settlement,⁷ no attempt had been made to mediate between Sweden and Finland. Both Rapporteurs had confined their attempted settlement of the dispute to

⁵Besides the Peace Treaty of Versailles which the Principal Allied Powers signed with Germany after World War I, several other special treaties were signed with about a dozen European states to ensure that minorities within those states would be protected. These latter treaties were made to come under a "guarantee" of the League of Nations for their execution and adherence. See below for specific references.

⁶See Chapter V, pp. 161-162.

⁷At first, it was A.J. Balfour who was succeeded by H.A.L. Fisher.

pressure on the parties from within the Council sessions, and generally, to exhortations for the parties to avoid the use of force and other means of violence against each other.⁸

Not only was the Aaland Islands Question one of the earliest disputes the League Council was asked to deal with, but it was probably one of the most complex and, potentially, one of the most dangerous from the point of international peace and security. For, the dispute involved not only three parties,⁹ but also concerned control over the Baltic Sea and region, a fact which explains why the Great Powers had a significant interest in the outcome. With this in mind, therefore, it is entirely logical to conclude that the British representative, acting as Rapporteur, would hesitate to engage in a form of mediation in which a compromise solution only between Sweden and Finland was expected. To show that the Great Powers, especially France and Great Britain, were concerned about the outcome of the dispute, here is what Frances Kellor says about it:

... the demilitarization of the Islands having lapsed, caused real concern to Great Britain in its policy of supremacy of the seas and caused that government to intervene. France favoured the adherence of the Islands to Sweden, while Great Britain favoured a different policy. The real difference of opinion, therefore, was

⁸See Chapter V, pp. 158-159.

⁹Sweden, Finland, and the Aaland Islanders. The latter could not be entirely ignored by the League Council because their appeal was based on the principle of self-determination—an important principle in the League of Nations.

between these powers, with demilitarization the objective and sovereignty a secondary consideration.¹⁰

Following the report of the International Commission of Jurists,¹¹ the Rapporteur (H.A.L. Fisher), recommended in his report to the League Council that a Committee of Rapporteurs be appointed

... to furnish the Council, in the shortest time necessary for consultations, and having regard to the legitimate interests of all parties concerned, with a report which will enable it to frame a final provisional settlement of the question and to establish conditions favourable to the maintenance of peace in that part of the world.¹²

The recommended Committee of Rapporteurs (sometimes called the "Commission of Rapporteurs")¹³ was composed of the following four members:

1. Baron Beyers (Former Foreign Minister of Belgium)—Chairman;
2. M. Felix Calonder (Former President of the Swiss Federation);
3. Signor Maggiorino Ferraris (Senator from Italy);
4. Mr. Abram J. Elkus (an American representative).

¹⁰Frances Kellor and Antonia Hatvay, Security Against War, Vol. 1 (New York: The Macmillan Company, 1924), p. 297.

¹¹League of Nations, Official Journal, Special Supplement No. 3 (5th September, 1920): Report of the International Committee of Jurists Entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion upon the Legal Aspects of the Aaland Islands Question.

¹²League of Nations, Document 27/6892/2764: Report Presented by the British Representative, Mr. H.A.L. Fisher, and adopted by the Council of the League of Nations, meeting in Paris on 20th September, 1920.

¹³League of Nations, Official Journal, September, 1920, p. 29. See also Footnote 14 below.

The purpose and function of the Committee of Rapporteurs was clearly stated in the Rapporteur's Report to the League Council on October 28th, 1920. The Report stated:

My colleagues having accepted this Report [the Jurists' Report] then proceeded to consider what their next step should be, and decided that, before they could find themselves in a position to make any recommendations, for the settlement of the dispute, they required further information on all aspects of the question which were not covered by the judicial opinion with which they had already been supplied. They therefore decided to appoint a Commission of Rapporteurs to make a thorough study of all other points involved taking into full account the legitimate interests of every party to the dispute. It was hoped that such a report would enable them to frame a recommendation providing a satisfactory settlement of this difficult question.¹⁴

This Committee of Rapporteurs worked for about six months starting from October 12th, 1920. In that time they visited the capital cities of the three primary parties to the dispute, where they received representations from the governments as well as from unofficial bodies and individuals. After further meetings in Paris, the Committee presented its final Report to the League Council on April 16th, 1921.¹⁵

The Report recommended that the Council should act as a whole in the capacity of an "impartial mediator" before it could recommend a settlement. Based on that Rapporteurs' Committee Report, the League

¹⁴League of Nations, Document 27/7747/2764: Report Presented by Mr. A.J. Balfour, and adopted by the Council on 28th October, 1920, p. 155.

¹⁵League of Nations, Council Document B7 (21/68/106): The Aaland Islands Question: Report submitted to the Council of the League of Nations by the Commission of Rapporteurs (February 7th, 1921).

Council recommended, as a solution to the dispute, an agreement which embodied the important principles of non-fortification and neutralization of the Aaland Islands. The result was that a Treaty was eventually signed by ten states on January 19th, 1922.¹⁶

The signing of the Treaty formally ended the Aaland Islands Question in which independent experts, acting on behalf of the Rapporteur, had played an important part. This, to some extent, points to the flexibility of the Rapporteur system in that the Rapporteur was free to employ different tactics to get a settlement. Direct mediation by the Rapporteur was not always successful and, under certain circumstances, was not the best method. This was particularly true when more information or facts were required before any definitive settlement could be recommended by the League Council. The chief Rapporteurs, as senior officials of their home governments (Ministers of Foreign Affairs as a rule), did not really have sufficient time to conduct their own personal investigations.¹⁷ However, in

¹⁶Ottawa, Public Archives Records Centre, File No. 265142—Confidential (11803) (N11935/1923/56) C. 1. A. 12 Convention à la Non-fortification et à la Neutralisation des Iles d'Åland. The countries involved were: Germany; Denmark; Estonia; Finland; France; Great Britain; Italy; Latvia; Poland; and Sweden.

¹⁷Rapporteurs generally relied upon the Information Section and Political Section of the League Secretariat for basic information on their particular disputes. For general mediation purposes the information was supplied by the Secretariat plus the information gathered at the first sitting of the Council from the statements by the parties to the League Council.

such cases the original Rapporteur remained the man chiefly responsible for the overall settlement machinery. These committees helped him uncover the facts, and he used the findings of the Committees for writing his Reports and for making them the bases for his recommendations.

(2) Rapporteurs Committees Formed from Council Members

The most common Rapporteurs' Committees were those composed of members of the League Council. These committees could be divided into two types: those appointed by the League Council to replace a single Rapporteur; and those appointed by the Council to assist the acting Rapporteur.

A typical example of the former was the Rapporteur's Committee appointed in the Upper Silesia Question of 1923. This particular Committee is considered to have been the first of such Rapporteurs' Committees which the League Council subsequently resorted to.

In Chapter IV, it was stated that the Rapporteur of the Upper Silesia Question, Viscount Kikujiro Ishii of Japan,¹⁸ had indicated that he was not happy to serve as Rapporteur for the dispute because of its complexity. In fact, he only accepted that Rapporteurship because the Council agreed that he would be responsible only for reporting on the first phase of the dispute. In his report, Ishii recommended, among other things, that he be replaced by a Committee of four Council

¹⁸See p. 121.

members:

... representatives of Belgium, Brazil, China and Spain, states which have so far taken no part in the preliminary investigations, nor in the discussions to which these investigations have given rise.¹⁹

The League Council took Ishii's advice and the Rapporteurs' Committee on Upper Silesia was given the task of investigating and interpreting the results of the plebiscite,²⁰ and then making recommendations to the League Council, which in turn would forward its suggestions to the Supreme Council. In substance, the Rapporteurs' Committee on Upper Silesia concluded, after considerable study on the spot, that an equitable settlement of the Upper Silesia dispute was to be based on three elements: (a) demarcation of the frontier between Germany and Poland to be made after a careful consideration of the economic necessities of the two countries; (b) principles to be drawn for the administration of Upper Silesia as a continuing social and economic whole; and (c) a regime of rights of nationality and domicile, and regulation for the protection of minorities in Upper Silesia to be instituted. The Committee's statement on the matter read as follows:

To preserve, for a certain time, for the industries of the territory separated from Germany their former markets, and to ensure the supplies of raw materials and manufactured products which are indispensable to these industries; to avoid the economic

¹⁹League of Nations, 27/15213/2764, op. cit., p. 3.

²⁰See, League Document 27/15213/2764, op. cit., pp. 8-10 (Annex).

disturbances which would be caused by the immediate substitution of the Polish mark for the German mark as the sole legal currency in the territory assigned to Poland; to prevent the working of the railways serving Upper Silesia from being affected by the shifting of the political frontier; to regulate the supplies of water and electricity; to maintain freedom of movement for individuals across the new frontier; to guarantee respect for private property; to guarantee, as far as possible, to the workers that they shall not lose, in the portion of territory assigned to Poland, the advantages which were secured by them by German social legislation and by their Trade Union organization; and, finally, to ensure the protection of minorities upon the basis of an equitable reciprocity.²¹

All this would finally be worked out in more detail at a convention between the parties.

The solution which the Rapporteurs' Committee recommended was transmitted to the Supreme Council by the League Council. On October 20th, 1921, the Conference of Ambassadors, representing the Supreme Council made the recommendations of the League Council its own and immediately asked the League Council to appoint an individual to preside over German-Polish negotiations.²² These negotiations, which took place in Geneva, resulted in the so-called 15-year Geneva Convention on Upper Silesia, which was signed on May 15th, 1922, and came into force on June 3rd, 1922.²³

²¹Ibid., p. 17.

²²Myers, op. cit.; p. 306.

²³Ibid.

The necessity for a Rapporteurs' Committee in the Upper Silesia dispute stemmed from the fact that the Great Powers had taken opposite sides in the dispute, and virtually turned it into a Great Power v. Great Power dispute. As H.A.L. Fisher said, the League Council "never really works well if relations are strained between France and Great Britain."²⁴ Referring specifically to the Upper Silesia dispute, Fisher noted, in a speech at Leicester on March 7, 1922, that in the Upper Silesia issue "there was a grave difference of opinion between France and Great Britain."²⁵ The same concern was voiced by the Secretary-General of the League of Nations, Sir Eric Drummond to Sir Maurice Cheetam, British Ambassador to France, in a letter dated May 18, 1921.²⁶ Reference has already been made to the fact that in this dispute, as in other disputes in which Poland was involved, France consistently supported Poland. The British, on the other hand, supported rather strongly the German case. The British resented, in particular, France's expressed support for the terrorist tactics of some Polish elements in Upper Silesia. In short, the dispute between Poland and Germany had become a direct confrontation between the two major powers in which Italy supported Great Britain. Given the

²⁴The Fisher Papers, Box 7, Letter from H.A.L. Fisher, the British Representative, to Professor Gilbert Murray, on January 30th, 1922.

²⁵The Fisher Papers, Box 10, Articles.

²⁶Lloyd George Papers, F/7/4/3: Letter from Sir Eric Drummond to Sir George Cheetam, 18/5/21.

above circumstances, a committee of Rapporteurs rather than a single Rapporteur was conceived as a more appropriate mechanism to handle the dispute. A single Rapporteur seemed adequate for all those disputes in which only two parties were involved. When more than two parties ranged against each other, as was the case in the Upper Silesia dispute, then a need arose for a committee. This became particularly urgent because the Great Powers themselves were involved. Single Rapporteurs tended to be reluctant to single-handedly tackle such disputes. At any rate, that seemed to be the thrust of Ishii's explanation for not wishing to continue the Rapporteurship of the dispute after he had completed the specific task he had accepted to do.

As an example of those Rapporteurs' Committees whose function was to work very closely with the Rapporteur and to assist him in his efforts to attempt to settle the dispute, we may examine the second phase of the Hungarian Optants Dispute between Hungary and Roumania which has been discussed above.²⁷ For three years after the July 5th, 1923, Council Resolution, on the first phase of the Hungarian Optants, the Hungarian Government encouraged the Hungarian Optants to lodge numerous complaints and claims with the Mixed-Roumano-Hungarian Arbitral Tribunal. By February 24th, 1927, when the Roumanian Government, in turn, appealed to the League Council, three hundred

²⁷ Chapter V, pp. 187-198.

claims had been filed with the Mixed Roumano-Hungarian Arbitral Tribunal, of which only twenty-two cases had been considered. At that point, Roumania not only withdrew its Arbitrator, but immediately called upon the League Council to handle the matter under Article 11, paragraph 2, of the Covenant of the League.

It was during the second meeting of the Forty-fourth Session of the League Council, held on March 7th, 1927, that the representatives of Roumania and Hungary once more gave their opening statements,²⁸ after which the President of the League Council proposed that Sir Austen Chamberlain of Great Britain should act as Rapporteur for the dispute.²⁹ Sir Austen Chamberlain accepted the appointment with reluctance, as he went on to state:

I am a busy man, Mr. President, and I should not undertake with much pleasure too heavy and responsible a task, but each one at this table owes his best services to the Council in case of need, and must put his own convenience on one side. If, therefore, it is the unanimous wish of my colleagues that I should act, and, I may add, if I can be assured that my nomination would be acceptable to both parties, I place myself at the disposal of the Council.³⁰

He requested only that "the League Council appoint two of my colleagues to act with me,"³¹ whom the Council President went on to appoint forthwith. They were the Representative of Japan (Viscount

²⁸League of Nations, Document 11/58039/28870: Minutes of the Second Meeting of the Forty-fourth Session of the Council.

²⁹Ibid., p. 23.

³⁰Ibid.

³¹Ibid., p. 24.

Ishii) and that of Chile (Villegas). At the suggestion of the President, the item was adjourned until "the June Session"—three months hence—when the Rapporteur would be ready with his report.

The period between March 7th, 1927, and September 15th, 1927 (when the Rapporteur's Committee delivered its report to the Council),³² was taken up by the Rapporteur and his two colleagues mediating between the two parties. Conferences were held involving the two parties together with the Rapporteurs in London and Geneva. Sir Austen Chamberlain presided over a two-day Conference held in London on May 31st, 1927 and on June 1st, 1927. It would appear that at these meetings the representatives of Roumania and Hungary made further statements on their respective cases, but both pointed out that they could not bind their governments in any undertaking—probably a hang-over from the experience of the first phase of the dispute. What the Rapporteur and his two colleagues were attempting to do this time was "to try all possible means of reaching a final solution by conciliation."³³ The Committee pressured the two parties "to obtain from their governments all possible concessions with a view to reaching a satisfactory solution." Further, the Rapporteur's Committee requested the Representatives of Roumania and Hungary to get in touch with their Governments forthwith.

³²League of Nations, Document C. 489. 1927. VII (15th September, 1927).

³³Ibid., p. 5.

Three private meetings between the parties to the dispute and the Rapporteurs were continued in Geneva during the June Session of the League Council.

As Sir Austen Chamberlain and his colleagues saw it, the problem was two fold. First, there was the question of "the election of the two deputy members for the Mixed Arbitral Tribunal, which the Hungarian representative had, as a result of the proceedings, demanded." This was called for under Article 239 of the Treaty of Trianon, after the withdrawal of the Roumanian member of the Mixed Arbitral Tribunal. Second, there was the fact that both Governments had, at different times, requested intervention by the League Council under Article 11, paragraph 2, of the Covenant. That is, it was both a legal as well as a political problem.

Hungary was impressed by the legal force of the dispute: she wanted the League Council to elect two deputy members of the Mixed Roumano-Hungarian Arbitral Tribunal to replace the Roumanian member who had been withdrawn, or failing that, that an Advisory Opinion of the Permanent Court of International Justice should be sought by the League Council on the dispute. Here is the full statement on that point which was eloquently expressed four years earlier by the then Hungarian representative:

The question of the Hungarian optants in the districts detached from Hungary and annexed to Roumania being a legal question, the Hungarian Government continues to think that while an agreement, which it has not up to the present been possible to realise, is still lacking, the only

solution capable of solving the problem and easing the situation, which all the world desires, is a judicial settlement on the substance of the case. The Hungarian Government is unable to recognise that the minutes of the negotiations at Brussels, which did not result in a final agreement on the substance of the question, could involve it in any obligation.

The profound respect which it feels for the Council of the League of Nations imposes upon it the duty of stating quite frankly that it is impossible for it, as it would be impossible for any other Government which found itself in a similar position, to take effective steps towards restoring peace in the minds of nations who consider themselves and whom it also considers (so long as the judgment which they demand is refused) to be injured in respect of rights guaranteed by treaties.

The resolution accepted by the Council does not contain—as was expressly stated in the report of His Excellency M. Adatci—any decision regarding the substance of the case. The Hungarian Government therefore reserves the right to take any future steps which the treaties and the Covenant of the League of Nations may allow in order to obtain justice for those which it has the right and the duty to represent.³⁴

Roumania was opposed to the latter proposal, and no Advisory Opinion could be sought, or forthcoming, without the two states consenting to that procedure.

The extent of the deadlock and difficulty is revealed in a letter from Sir Austen Chamberlain to Sir William Tyrell, the Permanent Undersecretary of State at the Foreign Office; on June 17th, 1927:

The stiffest task which I have had has been the Hungaro-Roumanian difficulty. In spite of all that we had said to them in London, they both came back here [Geneva] without having budged an inch from their perfectly uncompromising positions. Galzago, who at one moment advanced a little, took

³⁴League of Nations, Official Journal, August 1923, p. 908.

back all he had said at our last meeting, so we have adjourned the question until September in order that they may consult their Governments afresh.³⁵

The Rapporteur sometimes resorted to strong-arm tactics to pressure the parties to a dispute into reaching some agreement. This is quite clear in the Hungarian Optants dispute. To quote from Sir Austen Chamberlain again, he further says in the letter just referred to above:

Meanwhile, I told Titulesco [Roumanian Representative] with the assent of my colleagues, that he was going straight towards a precipice, that if he could not persuade his Government to concessions, we should have no alternative but to appoint the extra judges unconditionally. Similarly, in a separate private sitting, I told Galzago [Hungarian Delegate] that if his statement had been the final word of his Government it would indeed have been grave, and that in that case I should not be inclined to recommend to the Council to assist a Government which showed itself so perfectly unreasonable and averse to any friendly arrangement.³⁶

Despite the pressure which Sir Austen Chamberlain mounted against the representatives of Roumania and Hungary in their Geneva Sessions in June 1927, not much progress seems to have been made. In fact, the Report of the Committee of Rapporteurs had to be postponed to the September, 1927 Session of the Council of the League of Nations, without any indication as to what progress was being made in the private talks. As Sir Austen Chamberlain added, in

³⁵ The Chamberlain Papers, AC. 54/477: Letter to Sir William Tyrell, 17th, June, 1927.

³⁶ Ibid.

his letter to Sir William Tyrell which has been referred to above, "What the result of all this will be I do not know." In fact, the mediation efforts of the Rapporteur with the help of his two Council colleagues were sometimes a frustrating experience for Sir Austen Chamberlain which, as suggested above, forced him occasionally to use harsh language. He admitted this to Sir William:

Ishii and Villegas entirely shared my feelings and approved my language, and Ishii added that it was fortunate indeed that he had refused the Chairmanship, or he could not say such things as I had done, whilst coming from my mouth they produced a great effect upon those to whom they were addressed.³⁷

One of the advantages of Rapporteur mediation outside the League Council was that even if no settlement or solution of the dispute could be reached, it did not spell the end of all League Council efforts at finding an outright settlement later. The fact that the negotiations were continuing peacefully indicated that the Rapporteur was serving a useful function. In the case of the Hungarian Optants dispute, after the Rapporteur had satisfied himself that no useful purpose could be gained by further private negotiations, he sat down to prepare his report which was presented to the League Council on September 15th, 1927. The outcome of League Council consideration of the Hungarian Optants Dispute will be discussed below (see pp. 227-9). What should be noted, is that the end of direct contacts between the parties was the termination of only one phase of the dispute settlement. The report

³⁷ Ibid.

of the Committee of Three, as it was sometimes called, noted the following developments:

The Committee of the Council during its June Session submitted certain formulas to the two parties always with a view to conciliation and in the hope that the two Governments would agree.

The Committee is forced to confess that its hopes have been disappointed and that the two parties have been unable to accept the conciliatory formulas which it proposed.

As the two parties rejected the compromise proposed by the Committee of Three, the latter convened them again on September 2nd, with a view to a final attempt at conciliation.³⁸

After the parties rejected the new formula "the Committee of Three was compelled to abandon its hopes of reaching a settlement by conciliation." Instead, the Rapporteurs felt "obliged to seek a solution by other means."³⁹

It is interesting to observe that both Roumania and Hungary were Small Powers, while the chief Rapporteur was the representative of a Great Power. Under these circumstances, one would have expected the parties to be under pressure to yield and to accept some settlement formula suggested merely because a representative of a Great Power was the Rapporteur. It is difficult to ascertain whether such

³⁸ League of Nations, Document 11/61980/28470: Request of the Roumanian Government under paragraph 2 of Article 11 of the Covenant Regarding its Communication Addressed to the President of the Mixed Roumano-Hungarian Arbitral Tribunal on February 24th, 1927. (Report by the Committee of the Council), p. 7.

³⁹ Ibid., p. 8.

a Rapporteur made a significant difference to the conciliation effort or the outcome of a dispute. Certainly, with regard to the Hungarian Optants that fact (being a representative of a Great Power) did not seem to have made much of a difference, as the parties rejected all the suggestions so far. Perhaps this serves to show that Rapporteurship could not be used as a tool of the Great Powers. Despite their rejection of the proposals, the parties to the dispute openly acknowledged the neutrality and fairness of the Committee of Three in the conduct of the Hungarian Optants dispute. Finally, it may be noted that Sir Austen Chamberlain and his two colleagues had decided, in their report to the League Council on the results of the direct negotiations between Hungary and Roumania, "to abandon its hope of reaching a settlement by direct conciliation."⁴⁰ That, however, was not the signal for the termination of all efforts to settle the dispute. Rather, it was the start of a slightly different procedure: direct pressure by the League Council itself. As Sir Austen Chamberlain's Committee suggested:

The Committee of the Council therefore ventures to suggest that the Council should make the following recommendations:

- a) To request the two parties to conform to the three principles enumerated above;⁴¹

⁴⁰Ibid.

⁴¹Ibid., p. 2.

1. The Provisions of the peace settlement effected after the war of 1914-18 do not exclude the application to Hungarian nationals (including those who have opted for Hungarian nationality) of a

- b) To request Roumania to reinstate her judge on the Mixed Arbitral Tribunal;

The Committee of the Council hopes that the two parties, in so far as each is concerned, will accept these proposals.⁴²

The League Council met⁴³ and discussed the Hungarian Optants dispute on the basis of the report of the Rapporteur's Committee.⁴⁴ As expected, the Council went along with the recommendations of the Rapporteur.⁴⁵ Specifically, the President of the League Council proposed that:

The Council:

Considering that the best method of settling the dispute was by friendly negotiation between the two parties, recommended that method to them in September 1927, and stated

general scheme of Agrarian reform.

2. There must be no inequality between Roumanians and Hungarians, either in the terms of the Agrarian law or in the way in which it is enforced.
3. The words 'retention' and 'liquidation' mentioned in Article 250, which relates only to the territories ceded by Hungary, apply solely to the measures taken against the property of a Hungarian in the said territories and in so far as such owner is a Hungarian national. See, League of Nations, Document C. 489. 1927. VII, op. cit., p. 11.

⁴²Ibid., p. 2.

⁴³League of Nations, Document 11/2108/28470: Forty-Seventh Session—Hungarian Optants. In particular, the first four meetings held on the 17th and 19th, 1927.

⁴⁴League of Nations, Document 11/61980/28470: Report by the Committee of the Council. See also, Conwell-Evans, The League Council in Action, op. cit., pp. 185-200; and Myers, Handbook of the League of Nations, op. cit., pp. 310-312.

⁴⁵League of Nations, Document 11/2108/28470, op. cit., and Myers, ibid.

three principles which, in its opinion, might serve as an equitable basis for this negotiation.

Finding, however, that such friendly negotiation has not been possible between the parties, the Council, while considering its recommendation of September 19th, 1927, to be of value, and without modifying its views which are contained in the Minutes of its discussions, submits unanimously for the acceptance of the parties the following recommendation:

That the Council should name two persons, nationals of States which were neutral in the war, who should be added to the Mixed Arbitral Tribunal as established by Article 239 of the Treaty of Trianon (that is to say, that Tribunal including a Roumanian member, who would be restored to it by his Government), and that to this Arbitral Tribunal of five members there should be submitted the claims which have been filed under Article 250 of the Treaty of Trianon by Hungarian nations who have been expropriated under the agrarian reform scheme in the territory of the former Austro-Hungarian Monarchy transferred to Roumania.

The Council requests the representatives of the Hungarian and Roumanian Governments to inform it at its next session of the replies of those Governments, and decides at once to insert the question on the agenda of that session.⁴⁶

Predictably, "(t)he representative of Hungary accepted it [the Council resolution] on behalf of his Government, but the representative of Roumania declared his inability to accept it."⁴⁷ In the face of this impasse, the Rapporteur

... (w)hilst deeply regretting that the parties have hitherto failed to reach agreement on the lines of the Council's recommendations ... [he] remains of the opinion that this dispute ought to be settled by the parties upon the basis of the solutions which the Council has recommended to their acceptance ... to bring this long dispute to a close by reciprocal concessions.⁴⁸

⁴⁶League of Nations, Official Journal, April 1928, p. 446.

⁴⁷League of Nations, Official Journal, July 1928, p. 934.

⁴⁸Ibid.

With this insistence by the Rapporteur, the President of the League Council in a later meeting of the Council lent his weight by declaring that since "the resolution submitted by the honourable Rapporteur, Sir Austen Chamberlain, has been adopted by the Council, the question of the Hungarian Optants is now closed as far as the Council is concerned."⁴⁹ In fact, it was at the same meeting that the President of the Council greeted with happiness "the new reconciliation proceedings that are beginning between the two countries," which seemed to him to herald "peace and reconciliation" between the two countries.

Finally, it may be noted that in addition to the three disputes already dealt with in this chapter—Aaland Islands Question, Upper Silesia Question and Hungarian Optants (1927-28) dispute—there were nine others for which a committee of some sort was appointed for their settlement, or to assist the Rapporteur in the settlement.⁵⁰ In the Demir Kapu Incident of 1925, a special Commission of Inquiry was proposed by the Rapporteur to perform a specific function. Besides, it was composed of members appointed from outside the League of Nations, something similar to a Committee of experts. What is to be noted here is that in this dispute the Commission of Inquiry did not in any way replace the Rapporteur. Their specific function was to

⁴⁹Ibid., p. 940.

⁵⁰Mosul Dispute (1924-26); Demir Kapu Incident (1925); Finnish Vessels (1931-34); Szent-Gotthard Incident (1928); Manchuria Conflict (1931-33); Chaco Conflict (1928-35); Leticia Incident (1933); Abyssinian War (1935-38); and USSR-Uruguayan Relations (1936).

provide factual information which the Rapporteur would use for his Report and recommendations to the League Council.

Of the remaining eight disputes, four had Committees of Three in addition to the Rapporteur. Their only difference from the above (Demir Kapu) dispute was that these committee members were members of the League Council. The remaining disputes had no Rapporteurs at all. The first two were violent disputes in which Great Powers were involved, and the other two were South American disputes. These last four disputes are briefly described immediately below.

The first is represented by the Sino-Japanese (Manchuria) conflict of 1931-33 and the Italo-Ethiopian conflict of 1935-38. For each of these disputes the Council appointed a Committee of Five which was to try to take measures calculated to end the dispute.⁵¹ These were not Rapporteurs' Committees as such, but informal committees under the chairmanship of the President of the League Council. In both disputes, the Great Power rejected suggestions made by the Committee to end the disputes, and thus rendered Council intervention useless in the disputes.

The other category was represented by the two South American disputes: Chaco conflict, and the Leticia Incident. Neither of these disputes had Rapporteurs appointed for their settlement. This is peculiar because, as it has been shown in Chapter V, all the disputes involving

⁵¹United Nations, Document A/AC.18/68: Measures and Procedures of Pacific Settlement Employed by the League of Nations: Prepared for the Interim Committee of the General Assembly, p. 7.

the Lesser Powers had Rapporteurs appointed for their settlement, even those in which violence was used. The four South American states involved in these disputes were obviously Lesser Powers. What distinguishes these disputes from the rest, however, is that they took place outside Europe and did not involve European states. It is highly probable that the League Council tended to limit the application of the Rapporteur technique to Europe where it was known. Thus, rather than a single Rapporteur, the Council was inclined to use a Committee of Three in these disputes. It was the Committee of Three which, in its probe of the two disputes, was allowed to coopt the assistance of the United States of America and Brazil.

As an illustration, we may briefly examine the Leticia Incident. The Committee began its work on January 24th, 1933. Its first official duty was to send a telegram (identical telegrams) to both states on January 26th, 1933, requesting those two countries to stop hostilities, as well as soliciting submission of their cases to the Council. The Council met to debate the dispute after which again the Committee of Three communicated directly with the governments of both states and requested them to cease fighting, and suggested that they should meet with the Committee to try to settle the dispute. While Colombia showed signs of willingness to do that, Peru did not. Thus, on February 21st, 1933, the League Council met in Extraordinary Session at the request of Columbia. At the conclusion of that session, the Committee of Three was requested by the Council "to seek grounds for

agreement" between Peru and Colombia. The Committee held five meetings, some of which were attended by representatives of both parties. On February 25th, 1933, the Committee of Three submitted proposals for the settlement of the dispute to the two parties. Although Peru initially rejected the proposals, after the League Council unanimously accepted the recommendations of the Committee, Peru acquiesced as well.⁵²

To summarize, it is evident that Rapporteurs' Committees were preferred and used in two broad classes of disputes. First, there were disputes whose settlement would have required further or expert information to be available. Usually, these disputes had Rapporteurs but the latter may have needed more immediate facts beyond those supplied by the appropriate Section of the Secretariat. As the Rapporteurs did not have the amount of time to investigate disputes in detail on their own, they often suggested the appointment of a committee or commission. In all such cases, the Rapporteurs' Committee was composed of independent individuals or experts from outside the League Council. On the whole, such committees' functions ended when they handed in their report to the Rapporteur. Whether the added information supplied to the Rapporteurs by these Committees had any significant influence in the outcomes of the disputes it is difficult to say. In the final analysis, it depended upon what the Rapporteur did with the information.

⁵²Ibid., p. 9.

The Rapporteurs, however, were free to either accept or reject the information supplied.

The other class of disputes for which Rapporteurs' Committees were used were disputes which for one reason or another were considered to be complicated. These could be defined variously as: generally, disputes which involved Germany; disputes in which one or more of the Great Powers had some interest, directly or indirectly; disputes directly or indirectly connected with the post-World War I settlements; and disputes that took place outside Europe involving non-European powers.

It was a general rule that in such disputes the League Council appointed members of the League Council for committee work. Generally, these Rapporteurs' Committees performed two functions: (1) they assisted the Rapporteur (in those disputes with Rapporteurs) in his mediation efforts and in the writing of the reports; (2) where there was no Rapporteur, they performed the function of the Rapporteur. In both types of disputes the idea was that the disputes were too complex for a single Rapporteur to handle.

There is no evidence in our investigation that Rapporteurs' Committees were any more successful than single Rapporteurs. In fact, there is a better record of success from those Rapporteurs' Committees which assisted Rapporteurs rather than those which replaced or were appointed in place of a Rapporteur. It was not because committees were more successful in settlement of disputes than single Rapporteurs

for their appointment, but because single Rapporteurs were reluctant to tackle very complicated disputes.

(3) Committees Under the Minorities Treaties

Rapporteurs' Committees were also used in the settlement of disputes under the provisions of the Minorities' Treaties.⁵³ The latter came into existence at the conclusion of the Paris Peace Conference after World War I. All those disputes which involved minority groups within the states signatories of the Minorities' Treaties other than the Principal Allied Powers were expected to be settled under certain provisions included in the specific sections of the Treaty of Versailles and other related instruments.⁵⁴ The specific Treaty provisions on

⁵³A series of treaties between the Principal Allied and Associated Powers and Eight other European states and Turkey, were signed between 1920 and 1923. See the Chamberlain Papers, File No. AC. 41/4/41: Protection of Minorities: Report of the Committee Instituted by the Council Resolution 1929. (It is also League of Nations Document C. C. M. 1. 1929. 1).

⁵⁴(A). International Instruments containing Clauses Placed Under the Guarantee of the League of Nations:

1. Treaty Between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28, 1919;
 2. Treaty Between the Principal Allied and Associated Powers and the Kingdom of Serbs, Croats, and Slovenes, signed at St. Germain on September 10, 1919;
 3. Treaty Between the Principal Allied and Associated Powers and Czechoslovakia, signed at St. Germain on September 10, 1919;
 4. Treaty Between the Principal Allied and Associated Powers and Roumania, signed at Paris on December 9, 1919;
 5. Treaty Between the Principal Allied and Associated Powers and Greece, signed at Sieves on August 10, 1920;
- (B). Special Chapters inserted in the General Treaties of Peace:
6. Treaty of Peace with Austria, signed at St. Germain en-

minorities were guaranteed under special conventions between the Principal Allied Powers and the individual states, on one hand, and the League of Nations, on the other.⁵⁵

The basis of the Minorities Treaties was Article 93 of the Treaty of Versailles which stated that:

Poland accepts and agrees to embody in a Treaty with the Principal Allied and Associated Powers such provisions as may be deemed necessary by the said powers to protect the interests of inhabitants of Poland who differ from the majority of the population in race, language or religion.⁵⁶

The specific reference to Poland was because Poland was the first signatory of the original treaty on which the other treaties were based.⁵⁷ In fact, a clear statement of the origins and intentions of the Minorities Treaties was contained in a letter from M. Clemenceau

Laye on September 10, 1919 (Part III, Section V, Articles 62-69);

7. Treaty of Peace with Hungary, signed at Trianon on June 4, 1920 (Part III, Section VI, Articles 54 - 60);
8. Treaty of Peace with Bulgaria, signed at Neuilly-sur-Seine on November 27, 1919 (Part III, Section IV, Articles 49 - 57);
9. Treaty of Peace with Turkey, signed at Lausanne on June 24, 1923 (Part I, Section III, Articles 37 - 45).

⁵⁵League of Nations, Document C. L. 110. 1927. 1 (Annex): Protection of Linguistic, Racial and Religious Minorities by the League of Nations: Provisions contained in the Various International Instruments at Present in Force, August, 1927.

⁵⁶Treaty Between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28, 1919.

⁵⁷Ibid. See also the Chamberlain Papers, File No. 41/4/41, op. cit., p. 3.

of France to the Polish Minister of Foreign Affairs dated June 24th, 1919.⁵⁸ In that letter, writing on behalf of the Principal Allied and Associated Powers, Clemenceau stated that the Polish Minorities Treaty was not only in conformity with past tradition which had been manifested in the Congress of Berlin of 1878 when "the sovereignty and independence of Serbia, Montenegro, and Roumania were recognised," but was not contrary to "the new system of international relations which is now being built up by the establishment of the League of Nations."⁵⁹

Besides the Polish Minorities Treaty, a number of other treaties and other instruments were entered into.⁶⁰ The League of Nations became involved as a result of what was called the "guarantee" clause of the Versailles Peace Treaty. By the "guarantee" clause it stipulated that should the League Council so decide, it would guarantee that:

1. Any member of the Council could bring infractions to the attention of the Council;
2. The Council could take such action and give directions for effective rights;
3. Any member of the Council could refer infractions to the Permanent Court of International Justice.

⁵⁸League of Nations, Minutes of the Council, Second Session (London), Third Meeting, February 12th, 1920, p. 57.

⁵⁹See footnote 88 below.

⁶⁰Treaty of Peace Between the Principal Allied and Associated Powers and Poland, signed at Versailles on June 28, 1919.

Apparently, it was up to the League Council to accept or reject responsibility for minorities in the different countries. This was made explicit in M. Clemenceau's letter already referred to:

When the time came, . . . it would be quite open to the League either to refuse to accept the guarantee or to make the acceptance conditional on certain alterations in the provisions of the Treaty.⁶¹

The League Council arranged for discussions to take place in Brussels in October, 1920 concerning the Minorities Treaties.⁶²

Mr. Tittoni of Italy was the Rapporteur. After the Tittoni Report a more comprehensive scheme was devised whereby the minorities in the different countries were granted the guarantee of the League of Nations. One of the main innovations in the Tittoni Report was the use of Rapporteurs, Minorities Committees and Committees of Rapporteurs in the settlement of disputes.

As a result of the Brussels talks, it was also agreed that only states members, not groups or individuals, could appeal to the League of Nations or to the Permanent Court of International Justice. Otherwise it could create unsuitable situations in the states—

. . . which could give the appearance of making a minority organization politically independent of the state of giving such a minority political rights distinct from those of the majority⁶³

⁶¹The Chamberlain Papers, AC. 41/4/41, op. cit., p. 6.

⁶²League of Nations, Official Journal, Special Supplement No. 73: Documents Relating to the Protection of Minorities by the League of Nations. See also League of Nations, Document C.C. M. 1. (March 7, 1929), op. cit.

⁶³Chamberlain Papers, File No. AC. 41/4/41, op. cit., p. 5.

With regard to petitions before the League Council, the League's Rapporteur only became active after the Minorities Committee had referred the matter to the Council—that is, if the minorities had failed to come to some settlement with the plaintiff state. The Minorities Committee met in private and there were no formal minutes taken. The Committee was usually briefed by the Director of the Minorities Section of the League Secretariat. The main purpose of that meeting was to determine whether the petition should be considered by the Council or not.⁶⁴ Only after that first step had been determined did the Rapporteur or the Committee of Rapporteurs step into the picture.

[These] informal and friendly negotiations between a Committee of Three (and the Rapporteur) and the Government concerned constitute a much more effective method than public discussion in the Council.⁶⁵

The League Council took some care in appointing the Rapporteur or Committee of Rapporteurs for the Minorities questions.

In practice, the Acting-President of the Council when appointing two of his colleagues . . . has usually been guided by the following: the government to be entrusted with the duty laid down in the resolution of October 25, 1920, should not be a government of a state neighbouring that which the persons belonging to the minority in question are subjects, nor the government of a state the majority of whose subjects belong, from the ethnical point of view, to the same people as the majority in question.⁶⁶

⁶⁴Ibid., p. 18.

⁶⁵Ibid.

⁶⁶Ibid., p. 11.

In practice, what happened was that the Secretary-General of the League of Nations received a petition, which he communicated subsequently to the states members of the Council. Thereafter, it was up to any member of the Council to formally submit the complaint to the Council.

After that, the procedure which was followed was in four stages:

1. A petition was transmitted to the accused state;
2. If no answer was received from the state within three weeks, a transmission to all Council members was made;
3. But, if an answer was forth-coming within a three-week period indicating intention by the state to answer the allegations of the petition, then two months were allowed for the state to prepare its answer;
4. At the end of two months, transmission of all relevant documents to all members of the League of Nations was made.

The above was the formal procedure. In practice, the Rapporteur was free to resume negotiations with the accused state after the first stage. Azcarate, who spoke from first hand experience as Rapporteur for the Minorities questions, states:

Upon reference to the Council, therefore, of any given case, the Council, like the Committees, had no choice but to open negotiations with the government; negotiations which were carried out by the Rapporteur, accompanied in certain cases by two other members of the Council, who formed a new Committee.⁶⁷

⁶⁷ Pablo de Azcarate, League of Nations and National Minorities (Washington: Carnegie Endowment for International Peace, 1945), p. 118.

According to Azcarate, the following were the *Rapporteurs* for the Minorities Question from 1920 to 1932:

<u>Year</u>	<u>Rapporteur</u> ⁶⁸
1920 - 1921	Tittoni (Italy)
1921 - 1923	Paul Hymans (Belgium), A. J. Balfour (Great Britain);
1925	de Mello Franco (Brazil) Quinones de Leon (Spain);
1926	de Mello Franco (Brazil) Viscount Ishii (Japan);
1927 - 1929	M. Urrutia (Colombia);
1929 - 1930	M. Adatci (Japan);
1930	M. Nagai (Japan);
1930 - 1931	M. Yoshizawa (Japan);
1931 - 1932	M. Sato (Japan).

The *Rapporteurs* Minorities Questions almost performed the same function as that of the Regular *Rapporteur*⁶⁹ except that Minorities questions were political in nature.⁷⁰ Also the *Rapporteur* of the Minorities Questions became well informed about the problems of minorities

⁶⁸Ibid., p. 196.

⁶⁹See Chapter II, Section iii, pp. 30-39.

⁷⁰The aim of the Minorities Conventions were not humanitarian (i.e., to protect minorities from pain and suffering they were likely to experience from the state) but purely "to avoid the many inter-state frictions and conflicts which had occurred in the past" (Azcarate, op. cit., p. 14). That is, the *Rapporteur* for the Minorities Questions was concerned only with political questions while the Regular *Rapporteur* dealt with non-political questions.

in the treaty states through the Secretariat's Minorities Section and through extensive travels he usually undertook. Not much is known about the many disputes involving minorities in the treaty states. Part of the reason is that basically, these were internal disputes of the Minorities treaty states. Another reason, which is closely related to the above, was that the disputes (which were between the treaty state and a minority within that state) were dealt with and settled quietly and privately within the state. Usually, the Rapporteur and the Minorities Committee travelled to the state and conciliated between the parties on the spot. Exceptions were such celebrated disputes as the Hungarian Optants, the Memel and Upper Silesia Questions whose complexity and implications reached beyond the jurisdiction of the Minorities Treaties. Also, whether a dispute was to be handled through the mechanisms of the Minorities Treaties or through the League Council directly, depended upon the state that complained. That is, the state filing the complaint usually indicated the relevant Article in the Covenant under which it was appealing to the League Council.

CHAPTER VII

CONCLUSION

This study of the role of the Rapporteur in the League of Nations has reflected the author's general interest in "pacific settlement" as a way of coping with international conflict. Within the rubric of "pacific settlement" there exist a number of methods and techniques for the settlement of international disputes which include, most importantly: judicial settlement; arbitration; inquiry; mediation; conciliation; and good offices. It has not been the purpose of this study to add to this traditional list of techniques of dispute settlement, but rather to demonstrate the potential of the Rapporteur in the utilization of such techniques for the peaceful settlement of political disputes among states.

After summarizing the main findings of this study, this concluding chapter will explore the factors which appear to be an integral part of successful Rapporteurship as well as suggest the potential relevance of the Rapporteur system for contemporary international organization.

Summary

Between 1920 and 1939 twenty-eight international disputes were submitted to the Council of the League of Nations for settlement. Of course, there were many more disputes and situations which had been brought to the attention of the League Council in the twenty-year period which, for a variety of reasons, were not dealt with. On the other hand, these twenty-eight disputes were found by the Council to merit

closer scrutiny.

Although the League Council was unable to prevent war between States, its basic procedures and mode of operation were oriented towards peaceful settlement, as spelled out clearly in Articles 11, 12, 13, 14, 15 and 17 of the Covenant of the League. However, what was to turn out to be the most dominant feature of peaceful settlement—the Rapporteur—did not even appear in the Covenant. This was because it was introduced into the League after the Covenant had been written.

This study has been an account of how the League Council utilized the Rapporteur technique to promote peaceful settlement. In order to evaluate the effectiveness and success of Rapporteurship twenty-eight disputes were examined. However, rather than a detailed study of each of the disputes, seven were selected and examined in depth in terms of two broad categories. The first category consisted of those disputes in which Great Powers were involved as one of the parties: in this category there was a total of twelve disputes, three of which were studied in depth. The second category consisted of those disputes in which only the Lesser Powers (Middle Powers and Small Powers) were involved: in this category there was a total of sixteen disputes, four of which received detailed attention.

With regard to the twelve disputes involving the Great Powers, force was used in four of them (Corfu / Manchuria / Abyssinian War / Russo-Finnish War) resulting in outcomes which were dictated by the Great Powers. Although these four disputes were placed on the agenda

of the League Council, and subsequently debated, no Rapporteurs were appointed for them. It should be noted that this was the only major cluster of disputes in the League for which no Rapporteurs were appointed.¹ Opposition to the intervention of the League Council in general appears to have dictated a policy of opposition to Rapporteurship in particular.

Unlike the above disputes in which force was used, the remaining eight disputes involving the Great Powers had Rapporteurs appointed for their settlement, and in every case the process and outcomes were peaceful. Three of these disputes (Eupen and Malmedy / Upper Silesia / Memel Official) involved Germany as the Great Power. The other five disputes (Sanjak of Alexandretta / Mosul / Anglo-Persian Oil / Finnish Vessels / Russo-Uruguayan Relations) involving Great Powers (France, Great Britain and Russia) had Rapporteurs appointed to deal with them and were also settled peacefully.

With regard to those disputes involving only the Lesser Powers, the use of force by the parties did not prevent the use of a Rapporteur. Force or violence occurred in five disputes: (Demir Kapu / Vilna / International Terrorism / Leticia / Chaco). Rapporteurs were appointed for the first three while a Committee of three was provided for the South American disputes. Rapporteurship brought the Demir Kapu Incident and International Terrorism to a successful settlement, while the Vilna dispute was effectively frozen, long enough, to lead to a mutually accept-

¹The only other cluster were the two South American disputes of the Leticia Incident and the Chaco dispute.

able settlement about five years later. Together with the remaining disputes (Aaland Islands / Albanian Frontier / Hungarian Optants / Rhodope Forests / Jaworzina / Burgenland / Iraq-Persian Frontier / Koritza Delta / Szent-Gotthard / Vilna (B) / Hungarian Optants (B)) Rapporteurship manifested its greatest effectiveness in this category.

The overall picture that emerged is that twenty-two disputes out of twenty-eight had Rapporteurs appointed for their settlement, a figure of approximately 79%. In actual numbers, there were twenty-four Rapporteurs (as the Aaland Islands and Mosul disputes had two each as a result of replacements). The breakdown was as follows:

Rapporteurs drawn from:-

Great Powers			Middle Powers		Small Powers		
12			5		7		
U. K.	Japan	Italy	Sweden	Spain	Belgium	Czecho-slovakia	Norway
8	3	1	3	2	4	1	1

The first reading of the table above indicates that 50% of the Rapporteurships were handled by the Great Powers and 50% by the Lesser Powers. However, if Belgium's Rapporteurships could be interpreted as that of France also,² then the dominance of the Great Powers in peaceful

²Reference has already been made on this point in Chapter V. See in particular pp. 174-175.

settlement through the Rapporteur system cannot be doubted. A closer reading of the table reveals further that the Great Powers controlled ten Rapporteurships of disputes involving the Lesser Powers and only two involving the Great Powers, while the Lesser Powers controlled five Rapporteurships of disputes involving the Lesser Powers and five involving the Great Powers. These figures become meaningful in terms of the importance attached to impartiality in Rapporteur diplomacy as explained in the section below.

Factors Contributing to Successful Rapporteurship

In disputes involving Great Powers, a preliminary condition for successful Rapporteurship was a willingness on the part of Great Powers to eschew violence. Where a Great Power was determined to achieve its objectives without compromise and through the use of force, Rapporteurship could not function.

Willingness on the part of such Great Powers as Great Britain, France and Russia to eschew violence and permit the operation of Rapporteurship appears to have been conditional on the absence of a "vital interest" in the outcomes.³ For instance, in the Sanjak of Alexandretta and Mosul disputes, the respective Great Powers (Great Britain and France) were defending the interests of a non-European ally; in the Anglo-Persian Oil and Finnish Vessels, the disputes involved

³Willingness on the part of Germany to permit the operation of Rapporteurship in the three disputes to which she was a party seems to have been largely explicable by virtue of Germany's status as a defeated power and her inability to use force to affect the outcomes.

the interests (property) of private citizens of one of the parties; and in the Russo-Uruguayan Relations dispute, the issue involved allegations against the Great Power (Russia) which the latter denied.

In the case of disputes involving Lesser Powers, even the use of force did not militate against successful Rapporteurship. The informal pressure exerted by Great Powers was sufficient to persuade the Lesser Powers to accept Rapporteurship, which in turn produced peaceful settlements in fourteen out of sixteen cases.⁴

Once Rapporteurship was accepted as a technique by the parties to the dispute irrespective of their "power" status, what appears to be the most important factors explaining its contribution to the pacific settlement of international disputes?

One important characteristic of the Rapporteur in the League was that he was an individual (sometimes a team) who acted in the name of the League Council. Much of the success of Rapporteurship may be attributed to that fact. Up to that time (and probably since World War II) peaceful settlement appears to have suffered from a lack of clarity about the identity of intermediaries. Although noticeable steps had been made with regard to methods and techniques of pacific settlement,⁵ not much

⁴The Chaco Dispute and Leticia Incident. See pp. 203 and 244.

⁵The Hague Conventions on Pacific Settlement (1899 and 1907) can rightly be considered the most comprehensive institutionalization of traditional methods of mediation ever attempted. Not only were past ideas and experiences in mediation pooled together and systematized, but clear distinctions were made for the first time between mediation proper and good offices, and the latter two were further differentiated from such other pacific techniques as conciliation, arbitration, adjudication and inquiry. What was omitted, however, was the identity and nature of the intermediary, especially with regard to mediation. See James Brown Scott, The Hague Conventions and Declarations of 1899 and 1907, 2nd ed. (New York: Oxford University Press, 1915).

had been done about the identity of entities who would be qualified to act as intermediaries in international mediation.

Oran Young has suggested that any of the following are qualified intermediaries: uncommitted states; aligned and semi-aligned states; regional organizations; non-governmental organizations; and the United Nations system.⁶ Even the Hague Conventions on Pacific Settlement left it loosely to individuals, states or organizations to intervene as they saw fit or when they were asked to do so by the parties. With the establishment of the Rapporteur system in the League that uncertainty was laid to rest. International mediation was to be performed by a single individual, who was at the same time the representative of his state in the League Council.

Another factor which helps explain successful Rapporteurship was that in practically every dispute investigated, the Rapporteur in question proved to be a man of high intellectual and diplomatic calibre. This was because Rapporteurs as a group were either leading political personalities in their own societies, or senior government officials—usually Ministers of Foreign Affairs of the major states not involved in the particular disputes. In no case could they have been regarded as political nonentities. Of the twenty-four Rapporteurs, eighteen of them were, or had been, Foreign Ministers of their states. Such men as Paul Hymans of Belgium, Sir Austen Chamberlain of Great Britain, A.J. Balfour of

⁶Oran R. Young, The Intermediaries: Third-Party Settlement of International Disputes (Princeton: Princeton University Press, 1967), pp. 92-114.

Great Britain, K. J. Branting of Sweden and Eduard Beneš of Czechoslovakia were just a few of the highly skilled and successful Rapporteurs who were simultaneously Foreign Ministers of their states, and thus able to employ the political clout of their positions in discussions with the parties to a dispute. The use of such high governmental officials for international duty was one of the novel and constructive contributions of the League in peaceful settlement.

Not only were most Rapporteurs Foreign Ministers but a high proportion of them (ten out of twelve) were Foreign Ministers of the Great Powers. Diplomacy at this level involving the Great Powers was almost assured of success because at stake was not only the outcome of the particular dispute, but the honour and prestige of the particular Rapporteurs as representatives of Great Powers. That these men (who obviously were very busy with their other governmental responsibilities) found the time to act as Rapporteurs may be partially explained in terms of their high degree of commitment and dedication to the cause of international peace which appears greater than that demonstrated by representatives of today's states.⁷

Successful Rapporteurship can also be attributed to its flexibility in the choice and use of techniques and tactics: While it is true that

⁷One interesting exception to this general rule is the efforts by Henry Kissinger as Secretary of State to act as a mediator in the Arab-Israeli dispute. See also Alan James, The Politics of Peacekeeping (New York: Praeger, 1969), p. 40: There was "a general commitment to peaceful settlement, and a trust in the integrity of the mediator, conditions which have been noticeable by their absence since 1945."

the Rapporteur most frequently used mediation to effect a settlement, it was not the only technique he resorted to.⁸ In fact, he was not restricted to a particular technique. This study has shown that Rapporteurs often used such diverse techniques as negotiations, pressure and Council pronouncements, fact-finding by the use of Committees, good offices, and the use of Reports and mediation. For instance, inquiry and fact-finding were used in the Aaland Islands Question; advising and interpreting in the Eupen and Malmedy and Upper Silesia disputes; and negotiations in the Hungarian Optants, Vilna and Sanjak of Alexandretta disputes. Because the Rapporteur was able to utilize a variety of techniques, this enhanced the chances of peaceful settlement.

Another factor contributing to the successful operation of Rapporteurship was the effort to ensure neutrality and impartiality.⁹ This study has amply demonstrated that the Rapporteur's potential for impartiality stemmed from the neutrality of his state with regard to the dispute.

⁸Alan James, op. cit., Chapter 3. He distinguishes between mediation as a word used "in the narrow, technical sense of an activity which is distinct from good offices and conciliation" and also as referring "to all attempts by intermediaries to draw disputing states together and so obtain an agreed settlement," p. 36. The latter definition would be identical to Rapporteurship.

⁹While neutrality "refers to situations in which the activities of an intermediary have no impact at all on the relative distributions of pay-offs among the primary parties," impartiality "refers to situations in which the intermediary has no biases or preferences in favour of one of the original players or another." It is "a condition in which the intermediary has no personal interest in the relative distribution of pay-offs among the original players." See Oran R. Young, "Intermediaries: Additional Thoughts on Third-Parties," The Journal of Conflict Resolution, Vol. XVI, No. 1, March 1972, p. 56.

... it was the impartiality of the Rapporteur that mattered. He was chosen from countries on the Council which were neutral in the particular dispute.¹⁰

The impartiality of the Rapporteur was also assured by the system of appointing different Rapporteurs for each dispute. Thus an individual Rapporteur's respect and credibility was not strained by having to act as Rapporteur for a number of disputes following consecutively upon each other.

Impartiality was also guaranteed operationally. In disputes involving the Great Powers outside Europe, the Rapporteur was always the representative of a power similar in rank to the non-European party to the dispute. For example, in the Sanjak of Alexandretta and Mosul disputes the non-European party to the dispute was a Middle Power in both cases (Turkey) and thus the Rapporteurs (Richard Sandler and Branting and Unden) came from a European Middle Power (Sweden). Similarly, the Anglo-Persian Oil and the Russo-Uruguayan Relations disputes involved two non-European Small Powers (Persia and Uruguay) and as a result, the representatives of European Small Powers were appointed Rapporteurs (Beneš of Czechoslovakia and Titulesco of Roumania). When a European Great Power was involved in a dispute in Europe, Japan, a non-European Great Power was usually asked to be Rapporteur—the underlying assumption being that Japan had no particular or vital interest in Europe which would lead it to favour either of the parties in the dispute. If a European

¹⁰Some Aspects of Mediation (Geneva: Carnegie Endowment for International Peace, 1970), p. 35.

Great Power was involved in a dispute with a Lesser Power outside Europe, the tendency was to appoint the representative of a European Lesser Power to be Rapporteur. The underlying assumption here was that European Lesser Powers had no vital interests to protect outside Europe, nor had they any ambitions outside Europe, which made them more likely to be impartial in comparison with the Great Powers.

Rapporteur impartiality in Lesser Power disputes in Europe was supposed to be guaranteed by the use of Great Power representatives, especially those of Great Britain, which continued to enjoy an historical reputation as a "balancer" in Europe.

Peaceful Settlement in the United Nations System and Rapporteurship

The times and circumstances in which the United Nations operates are markedly different from those of the League of Nations. Not only has there been a significant increase in the number and scope of international disputes in the United Nations era as compared to the League, but nuclear weapons technology has injected a new dimension into contemporary international politics which is without parallel in its implications for the survival of the human race. These and other differences between the two universal organizations¹¹ should caution against any hasty and simplistic judgements on the comparative superiority or inferiority of each over the other. Nevertheless, differences between the

¹¹See Clyde Eagleton, "Covenant of the League of Nations and Charter of the United Nations: Points of Difference," Department of State Bulletin, Vol. XIII, p. 263; Leland M. Goodrich, "From League of Nations to United Nations," International Organization, Vol. 1 (1947), pp. 3-21.

two organizations become relevant in view of the different techniques and orientations of the United Nations in peaceful settlement which seemed to ignore certain past League experiences. In particular, the record of the Rapporteur system seemed so impressive to some, that serious questions have been raised concerning its exclusion from the United Nations system.¹²

Instead of Rapporteurs, the United Nations has frequently appointed UN Mediators and/or the Secretary-General for peaceful settlement duties. The former are merely the appointees of the Secretary-General. Such men as Count Folke Bernadotte, Dr. Ralph Bunche and Gunnar Jarring were appointed by the Secretary-General as UN Mediators or Special Representatives of the Secretary-General. Usually, they were career diplomats (e.g., Ambassadors) who lacked the political clout that a Rapporteur (Foreign Minister) would have had, nor were they from important state actors.¹³ With the exception of Elsworth Bunker, Dr. Ralph Bunche and Dr. Frank Graham (American private citizens

¹²This view was frequently expressed at the conference held at the Talloires in France in 1969. The Conference was sponsored by the Carnegie Endowment for International Peace. See Some Aspects of Mediation, op. cit.

¹³It is ironic and perhaps instructive that in the post-1973 Middle East situation, whatever progress has been made in terms of disengagement, has been, at least partly, a product of the active role which American Secretary of State Kissinger has played. In that sense, perhaps Kissinger's role harkens back to the role of League of Nations Rapporteurs. The analogy should not be pressed too far, however, since the United States (and Kissinger) is hardly the ideal of an "impartial Rapporteur" in the traditional meaning of fundamental disinterest in the outcome sought in a settlement.

who became involved in Indonesia, Palestine and Kashmir, respectively) all the other UN Mediators have been citizens of Middle or Small Powers. In fact, the overwhelming majority of them have been Swedish diplomats.¹⁴

Unlike the Rapporteurs, these UN Mediators did not have the full authority of the political organ (i.e., the Security Council) to back them up, as they were appointed by and responsible to the Secretary-General of the United Nations. Related to the above weakness of the UN Mediators was the fact that the UN Mediators' Reports to the Secretary-General rarely became the focus of Security Council attention. On the other hand, the effectiveness of the Rapporteur Report in the League of Nations was that it not only was sent directly to the League Council, but the Rapporteur read it to the Council in person.

Nor can the Secretary-General of the United Nations be regarded as an adequate substitute for Rapporteurs individually chosen for particular disputes. Because of the enormous responsibilities of the office of the Secretary-General combined with the increased number and complexity of international disputes in the contemporary world, the individual Secretary-General is physically unable to cope with it all. His other commitments as well as the possibility of dissipating his credibility as an impartial figure through prolonged handling of disputes, creates a number of serious problems. Equally important is the fact that as an

¹⁴Count Folke Bernadotte (Palestine); Hans Engen (Middle East); Ambassador Baron Beck-Friis (Thailand-Cambodia); Ambassador Herbert de Ribbing (Buraimi Oasis); and N.S. Gussing (Thailand-Cambodia).

"international representative" the Secretary-General may be less effective in peaceful settlement than a state's representative from a Major Power, particularly in dealing with Lesser Power disputes.

These lacunae suggest the continuing relevance of the Rapporteur. In fact, even the Secretaries-General themselves have in the last few years recognized the need for a third-party role of the type performed by the League's Rapporteur. This has shown itself in the form of the encouragement and support they have given for research studies on third party intervention in the peaceful settlement of international disputes.¹⁵ Such research would be enriched by a re-examination of the role of the League of Nations' Special Rapporteur which provides a concrete illustration of the effectiveness of third-party intervention in international disputes.

¹⁵The most relevant of these studies are those of Vratislav Pechota, Complementary Structures of Third-Party Settlement of International Disputes (New York: United Nations Institute for Training and Research, P.S. No. 3, 1971); The Quiet Approach: A Study of the Good Offices Exercised by the United Nations Secretary-General in the Name of Peace (New York: United Nations Institute for Training and Research, P.S. No. 6, 1972). A companion study was by Frank Edmead, Analysis and Prediction in International Mediation (New York: United Nations Institute for Training and Research, P.S. No. 2, 1971).

BIBLIOGRAPHY

(A) PERSONAL PAPERS AND DOCUMENTS

Balfour, A.J. (Lord). The Balfour Papers. Public Record Office,
Foreign Office Records, London.
Series F.O. 800, Piece Numbers 217, 329.

Chamberlain, Austen (Sir). The Chamberlain Papers. Main Library,
University of Birmingham, Birmingham.
Series: AC.20/2/1-5 and AC.59/1-94.

Boxes:

AC. 1/8/4,	AC. 38/1/1,	AC. 38/3/60,
AC. 41/3/47,	AC. 41/4/41,	AC. 50/249,
AC. 50/444,,	AC. 50/445,	AC. 50/450,
AC. 52/419,	AC. 52/420,	AC. 52/454,
AC. 52/704,	AC. 52/729,	AC. 52/769,
AC. 53/326,	AC. 53/516,	AC. 54/167,
AC. 54/473,	AC. 54/477,	AC. 54/480,
AC. 55/130,	AC. 59/66,	AC. 59/70,
AC. 59-78,	AC. 59/81.	

Fisher, H.A.L. The Fisher Papers. The Bodleian Library,
Oxford University, Oxford.

Boxes: 1, 2, 3, 4, 6, 7, 10, 11A, 12, 14, 23, 25 and 29.

Fosdick, Raymond B. The Fosdick Papers. Main Library, Princeton
University, Princeton, N.J. (unclassified).

Lloyd George, David. The Lloyd George Papers. The Beaverbrook
Library, London.

Boxes:

F/3/5/19,	F/6/6/36,	F/6/6/40,
F/7/6/3,	F/9/3/49,	F/13/2/21,
F/13/2/26,	F/23/4/27,	F/24/2/32,
F/25/1/34,	F/25/2/25,	F/42/7/8,
F/45/9/29,	F/48/3/37,	F/49/5/52,
F/49/5/13,	F/53/3/11,	F/56/6/4,
F/200/3/1,	F/201/1/11,	F/201/1/12.

Murray, Gilbert. The Gilbert Murray Papers. The Bodleian Library, Oxford University, Oxford.

Containers: G. M. 82, G. M. 83 and G. M. 87.

Sweetser, Arthur. The Arthur Sweetser Papers. Manuscript Division, Library of Congress, Washington, D. C.

Containers:

C. 5	C. 13	C. 30	C. 31
C. 76	C. 79	C. 85	C. 86
C. 87	C. 114	C. 115	C. 117

(B) GOVERNMENT AND OTHER OFFICIAL DOCUMENTS

Canada: Public Archives Records Centre, Ottawa. The following File Numbers:

265117,	265131,	265135,	265136,	265142,
265151,	265184,	265188,	265192,	265205,
265227,	265281,	265287,	265294,	265302,
265332,	265355,	265538,	265568,	265657.

(C) LEAGUE OF NATIONS DOCUMENTS

1) United Nations Library, League of Nations Archives, Historical Manuscript Section, Geneva.

Boxes and selected Files:

R544. The Aaland Islands Question.

11/468/468, 11/1349/468, 11/4588/468, 11/5706/468.

R545. The Aaland Islands Question.

11/5020/468, 11/5297/468, 11/5319/468, 11/5303/468,
11/5350/468, 11/5430/468, 11/5526/468.

R546. The Aaland Islands Question.

11/6332/468, 11/6907/468, 11/7199/468, 11/7575/468,
11/7536/468, 11/8882/468, 11/9698/468, 11/10014/468,
11/11233/468.

R547. The Aaland Islands Question.

11/13376/468, 11/13410/468, 11/13661/468.

R1406. Aaland Islands Question.

27/5984/2764, 27/6892/2764, 27/10853/2764,
27/7747/2764, 27/11153/2764.

R1409. Aaland Islands Question.

27/13377/2764.

R605. The Mosul Dispute.

11/25888/25888, 11/25801/25888.

R610. The Mosul Dispute.

11/48901 - 55167/25888.

R1415. The Mosul Dispute.

27/25979/2764.

R612. The Hungarian Optants.

11/29309/28470, 11/29007/28470.

R613. The Hungarian Optants.

11/29403/28470, 11/29633/28470, 11/58039/28470,
11/59340/28470.

R614. The Hungarian Optants.

11/62108/28470, 11/61980/28470, 11/61937/28470.

R1417. The Hungarian Optants.

27/30257/2764, 27/30548/2764.

R615. The Corfu Incident.

11/32831/30508, 11/31215/30508, 11/30889/30508,
11/30774/30508, 11/30586/30508, 11/30562/30508,
11/30532/30508.

R1417. The Corfu Incident.

27/30548/2764.

R623. The Demir Kapu Incident.

11/47222/47177, 11/47271/47177, 11/47451/47177.

R624. The Demir Kapu Incident.

11/47802/47177.

R625. The Demir Kapu Incident.

11/48279/47177, 11/53837/47177, 11/53848/47177,
11/53916/47177.

R626. The Demir Kapu Incident.

11/62012/47177.

R1280. The Nationality Decrees Dispute.

19/25174/22587.

R1281. The Nationality Decrees Dispute.

19/25333/22587, 19/28894/22587, 19/29217/22587.

R1414. The Nationality Decrees Dispute.

27/23040/2764 and 27/23047/2764.

R1404. Meetings, Procedures and Decisions of the
League Council.

27/1957/193, 27/1372/772, 27/1385/1385,
27/1699/1699, 27/1803/1803, 27/3054/407,
27/4581/407, 27/407/407, 27/862/407,
27/3054/407, 27/5089/407, 27/5243/407,
27/5469/407, 27/17900/407, 27/19874/407,
27/31734/407.

R1404. Meetings, Procedures and Decisions of the
League Council.

27/2764/2764, 27/3027/2764, 27/3106/2764,
27/3116/2764, 27/3149/2764, 27/3150/2764,
27/3178/2764, 27/3496/2764, 27/3820/2764,
27/4469/2764.

R1431. Meetings, Procedures and Decisions of the League Council.

27/3108/2872, 27/2872/2872, 27/18507/2938,
27/15663/2983, 27/3285/3121, 27/3491/3491,
27/8610/4072.

R1436. Meetings, Procedures and Decisions of the League Council.

27/61935/31982, 27/31982/31982.

R1603. Meetings, Procedures and Decisions of the League Council.

40/64916/40916.

R5209. Meetings, Procedures and Decisions of the League Council.

14/1159/13.

R5213. Meetings, Procedures and Decisions of the League Council.

14/7491/6.

R5216. Meetings, Procedures and Decisions of the League Council.

14/1463/14.

R1610. Question of Upper Silesia.

27/15213/2764.

2) Documents:

League of Nations: Document 37 (20/48/37): Report by the Secretary-General to the First Assembly of the League of Nations on the League of Nations on the Work of the Council.

League of Nations: Document C.88.1923. VII, Letter from the British Secretary of State for Foreign Affairs to the Secretary-General of the League of Nations (January 25th, 1923).

League of Nations: Document C.244.M.128.1923.1. Request by the Hungarian Government (March 15th, 1923).

League of Nations: Document C.6.M.4.1923. VII, Letter from the President of the Conference of Ambassadors to the Secretary-General of the League of Nations.

League of Nations: Council Document No. 4 (27/862/193): Draft Order of Procedure of the Council of the League of Nations.

League of Nations: Document C.93.1933. Rules of Procedure for the Council of the League of Nations (26th August, 1933).

League of Nations: Document C.144.M.92.1937 (1937.1): Rules of Procedure of the Assembly, Revised Edition (April, 1937).

League of Nations: Document C.658 (1).M.269(1).1931.1. General Convention to Improve the Means of Preventing War (September 26th, 1931).

League of Nations: Document C.L. 110.1927.1 (Annexe): Protection of Linguistic, Racial and Religious Minorities by the League of Nations.

League of Nations: Provisions contained in the Various International Instruments at present in Force (Geneva, August 1927).

League of Nations: Document C.400.M.147.1925. VII, Question of the Frontier Between Turkey and Iraq—Report submitted to the Council by the Commission Instituted by the Council Resolution of September 30th, 1924 (July 16th, 1925).

League of Nations: Document C.216.M.77.1926.VI (C. P. M. 391).
Iraq: Decisions of the Council of the League of Nations of
September 27th, 1924, and March 11th, 1926, relating to
the Application of the Principles of Article 22 of the Covenant
to Iraq together with certain Treaties and Agreements between
Iraq and Great Britain and other relevant documents.

League of Nations: Document C.577.M.23.1925.VII (February 4th, 1925);
Document C.399.138.1925.VII. Delimitation of the Frontier
between Turkey and Iraq: Correspondence (July 16th, 1925).

League of Nations: Document C.577.M.226.1923. Appeal from the
Greek Government under Article 12 and 15 of the Covenant
(September 1st, 1923).

League of Nations: Document C.422.M.186.1923.V. Communication
from the Secretary-General to all League Council Members
Concerning the French-British Dispute (June 27th, 1923).

League of Nations: Document C.L.134.1922.V. Transmission to all
Council Members from the Secretary-General Concerning the
Transmission of French-British Request for Advisory Opinion
(November 16th, 1922).

League of Nations: Document C.L.10.1923.V. Advisory Opinion
No. 4 of the Permanent Court of International Justice: Note
by the Secretary-General.

League of Nations: Document 20/4/190 (Council Document H2).
Execution of Article 34 of the Treaty of Peace of Versailles:
Memorandum by the Secretary-General.

League of Nations: Document 20/4/94 (Council Document H.1):
Execution of Article 34 of the Treaty of Versailles.

League of Nations: Council Document 69 (11/6561/468): Report of
the International Commission of Jurists Entrusted by the
League of Nations with the Task of Giving an Opinion upon
the Legal Aspects of the Aaland Islands Question
(September 5th, 1920).

League of Nations: Council Document B7 (21/68/106). The Aaland
Islands Question: Report submitted to the Council of the
League of Nations by the Commission of Rapporteurs
(February 7th, 1921).

League of Nations: Document 20/41/63 (11/6907/468): The Aaland Islands Question: Report presented by the British Representative (September 20th, 1920).

League of Nations: Document 20/41/38/1 (11/5430/468). The Question of the Aaland Isles: Declaration by Mr. Balfour on behalf of the Council (July 1920).

League of Nations: Document C.143.M.92.1939.VII. Convention of 1921 for the Non-fortification and Neutralization of the Aaland Islands: Measures proposed by the Finnish and Swedish Governments.

League of Nations: Document C.573.M.231.1931.VII. Claim made by the Finnish Government with Regard to Finnish Vessels Used During the War by the Government of the United Kingdom. (Also the following Documents: C.1008.M.560.1931.VII; C.12.M.7.1935.VII; C.182.M.100.1935.VII; C.108.M.37.1932.VII).

League of Nations: Document C.518.M.234.1934.VII. Request by the Yugoslav Government under Article 11, Paragraph 2, of the Covenant.

League of Nations: Document C.556.1922.V. Dispute Between France and Great Britain as to the Nationality Decrees issued in Tunis and Morocco on November 8th, 1921, and their application to British subjects: British Memorandum to the Council.)

League of Nations: Minutes of Council, January 1920 - October 1921 (Session 1 - Session 14).

League of Nations: Monthly Summary, Vol. 1, 1921 - Vol. 18, 1938.

League of Nations: Official Journal, Year 1 (1920) - Year 20 (1939).

League of Nations: The Council of the League of Nations (Geneva: Information Section, 1938).

(D) UNITED NATIONS DOCUMENTS

United Nations: Document A/AC.18/68. Measures and Procedures of Pacific Settlement Employed by the League of Nations. Prepared for the Interim Committee of the General Assembly.

United Nations: Unrestricted Document S/71: Report of Mr. Chatenet, Chairman of the Committee of Experts, Concerning Certain Aspects of the Powers of the Secretary-General In Relation to the Security Council (May 31st, 1946).

United Nations General Assembly: Interim Committee Document A/520/Rev. 9. Rules of Procedure of the General Assembly (December 31, 1967).

United Nations General Assembly: Document A/96/Rev. 5. Provisional Rules of Procedure of the Security Council (January 1, 1969).

United Nations General Assembly: Document A/AC.18/SC.6.6. Study of the Organization and Operation of the United Nations Commissions.

United Nations General Assembly: Document A/AC.18/68. Measures and Procedures of Pacific Settlement employed by the League of Nations.

United Nations General Assembly: Document A/AC.18/61. Use by Organs of the United Nations of Measures and Procedures of Pacific Settlement.

United Nations General Assembly: Document A/AC.13/56. History and Analysis of the General Act (26 September, 1928) for the Pacific Settlement of International Disputes.

United Nations General Assembly: Document 1027, III/II/31(1). United Nations Conference on International Organization. Report of the Rapporteurs Committee (III/II).

United Nations General Assembly: Document A/AC.18/SC.6/1. Statements of Views and Suggestions by the Secretary-General regarding the Work of the Interim Committee.

Bailey, Sydney D. Peaceful Settlement of Disputes: Ideas and Proposals for Research. New York: United Nations Institute for Training and Research Study, P.S. No. 1, Third (revised) edition, 1971.

Edmead, Frank. Analysis and Prediction in International Mediation. New York: United Nations Institute for Training and Research. P.S. No. 2, 1971.

Pechota, Vratislav. Complementary Structures of Third-Party Settlement of International Disputes. New York: United Nations Institute for Training and Research. P.S. No. 3, 1971.

The Quiet Approach: A Study of the Good Offices Exercised by the United Nations Secretary-General in the Cause of Peace. New York: United Nations Institute for Training and Research. P.S. No. 6, 1972.

General Assembly Resolution 503 (VI): Methods which might be used to Maintain and Strengthen International Peace and Security in Accordance with the Purposes and Principles of the Charter (January 12th, 1952).

United Nations Conference on International Organization, Documents, Volume 12. Commission III (Security Council. New York: United Nations Information Organization, 1945).

Year Book of the United Nations, 1947-48.

Year Book of the United Nations, 1948-49.

Document 1/G/1: Dumbarton Oaks Proposals for a General International Organization.

General Assembly Resolution III(11). Establishment of the Interim Committee of the General Assembly (November 13, 1947).

General Assembly Resolution 295 (IV): Interim Committee Established According to Article 22, of the United Nations Charter, Paragraph 2 (November 21, 1949).

(E) BOOKS

Aron, Raymond. Peace and War. London: Weidenfeld and Nicolson, 1966.

Aufrecht, Hans. Guide to League of Nations Publications. New York: Columbia University Press, 1951.

Azcarate, Pablo de. League of Nations and National Minorities. Washington: Carnegie Endowment for International Peace, 1945.

Bailey, Sydney B. The General Assembly of the United Nations. London: Stevens and Sons Limited, 1960.

_____. The Secretariat of the United Nations. New York: Carnegie Endowment for International Peace, 1962.

Barros, James. The Aland Islands Question: Its Settlement by the League of Nations. New Haven: Yale University Press, 1968.

_____. Betrayal from Within. New Haven: Yale University Press, 1968.

_____. The Corfu Incident of 1923. Princeton, N.J.: Princeton University Press, 1965.

_____. The League of Nations and the Great Powers. Oxford: At the Clarendon Press, 1970.

Bassett, John Spencer. The League of Nations: A Chapter in World Politics. New York: Longmans, Green and Company, 1928.

Birdsall, Paul. Versailles Twenty Years After. New York: Reynal and Hitchcock, 1941.

Bodley, John Edward Courtenay. France. New and Revised Edition. London: Macmillan and Co. Ltd., 1902.

Borden, R.L. Robert Laird Borden: His Memoirs. Two vols. Toronto: Canadian Institute of International Affairs, 1938.

Brook, David. Preface to Peace. Washington: Public Affairs Press, 1964.

Brierly, J.L. The Law of Nations, 6th Edition. Oxford: At the Clarendon Press, 1963.

Brownlie, Ian. International Law and the Use of Force by States. Oxford: At the Clarendon Press, 1963.

Burton, E. Margaret. The Assembly of the League of Nations. Chicago: The University of Chicago Press, 1941.

Carroll, Marie J. Key to League of Nations Documents on Public Sale 1920-1929. Boston: World Peace Foundation, 1930 and 1933.

Carr, E.H. International Relations Between The Two World Wars. London: Macmillan and Co. Ltd., 1947.

Cecil, Robert (Viscount). A Great Experiment. New York: Oxford University Press, 1941.

→ All The Way. London: Holder and Stoughton Ltd., 1949.

Chamberlain, Austen (Sir). Down The Years. London: Cassell and Co. Ltd., 1935.

Clark, Grenville and Louis B. Sohn. World Peace Through World Law. Cambridge, Mass.: Harvard University Press, 1962.

Claude, Iris L., Jr. Swords Into Plowshares. 3rd edition revised. New York: Random House, 1964.

Conwell-Evans, T.P. The League Council in Action. London: Oxford University Press, 1929.

Cordier, Andrew W. and Wilder Foote. The Quest for Peace. New York: Columbia University Press, 1965.

Corry, J.A. and Henry J. Abraham. Elements of Democratic Government. New York: Oxford University Press, 1964.

Craig, Gordon A. and Felix Gilbert. The Diplomats 1919-1939. Princeton, N.J.: Princeton University Press, 1953.

Davies, David. Report of a Group on the Peaceful Settlement of International Disputes. London: David Davies Memorial Institute of International Studies, 1966.

Davis, David (Lord). The Problem of the Twentieth Century. New and Revised Edition. London: Ernest Benn Ltd., 1934.

Davis, Vincent and Arthur N. Gilbert (eds.). International Relations: Basic Courses in International Relations. Los Angeles: Soge Publications, Inc., 1968.

Deutsch, Karl W. Political Community At The International Level. Princeton, N.J.: Princeton University Press, 1953.

Doman, Nicholas. The Coming Age of World Control. New York: Harper and Brothers Publishers, 1942.

Douglas, Ann. Industrial Peacemaking. New York: Columbia University Press, 1962.

Drummond, Eric (Sir). League of Nations: Ten Years of Co-operation. Geneva: Secretariat of the League of Nations, 1930.

Dunn, Frederick Sherwood. The Practice and Procedure of International Conferences. Baltimore: The Johns Hopkins Press, 1929.

Duverger, Maurice. The French Political System. Chicago: The University of Chicago Press, 1958.

Eagleton, Clyde. International Government. New York: The Ronald Press Company, 1932.

Eastman, S. Mack. Canada at Geneva. Toronto: The Ryerson Press, 1946.

Eden, Anthony (Sir). Foreign Affairs. London: Faber and Faber, 1939.

Esmein, Adhemar. Eléments de Droit Constitutionnel. Paris: L. Larose, 1909.

Finer, Herman. Theory and Practice of Modern Government. Revised Edition. New York: Henry Holt and Company, 1949.

Fisher, Roger. International Conflict and Behavioural Science. New York: Basic Books, 1964.

Foley, Hamilton. Woodrow Wilson's Case for the League of Nations. Princeton, N.J.: Princeton University Press, 1923.

- Forsyth, M. G., H. M. A. Keens-Soper and P. Savigear. The Theory of International Relations. London: George Allen and Unwin Limited, 1970.
- Franck, Thomas M. The Structure of Impartiality. New York: The Macmillan Company, 1968.
- Gardner, Richard N. (ed.). Blueprint for Peace. New York: McGraw-Hill Book Company, 1966.
- Garthorne-Hardy, G. M. A Short History of International Affairs. 4th Edition. London: Oxford University Press, 1950.
- Gooch, R. K. Parliamentary Government in France, Revolutionary Origins 1789-1791. New York: Russell and Russell, 1960.
- Goodrich, Leland M. and Anne P. Simons. The United Nations and the Maintenance of International Peace and Security. Washington, D.C.: The Brookings Institute, 1955.
- Greaves, H. R. G. The League Committees and World Order. London: Oxford University Press, 1931.
- Green, F. C. The Ancien Regime, A Manual of French Institutions and Classes. Edinburgh: Edinburgh University Press, 1958.
- Greenwood, Gordon. The Modern World: A History of Our Time. New York: Frederick A. Praeger, 1965.
- Haas, Ernst B. Beyond the Nation State. Stanford: Stanford University Press, 1964.
- Harley, John E. (ed.). Documentary Text Book on International Relations. Los Angeles: Suttonhouse, 1934.
- Hartman, Frederick H. The Relations of Nations. New York: The Macmillan Company, 1957.
- Henkin, Louis. How Nations Behave. New York: Frederick A. Praeger, Publishers, 1968.
- Howard-Ellis, C. The Origin, Structures and Working of the League of Nations. London: George Allen & Unwin, 1928.
- Hudson, Manley O. How the League of Nations Met the Corfu Crisis. Boston: World Peace Foundation, 1923.

Hudson, Manley O. (ed.). International Legislation. Washington, D.C.: Carnegie Endowment for International Peace, 1931.

_____. World Court Reports. Washington: Carnegie Endowment for International Peace, 1934-1943 (4 Vols.).

Ikle, Fred Charles. How Nations Negotiate. New York: Harper and Row, 1964.

Jackson, Elmore. The Meeting of Minds: A Way to Peace Through Mediation. New York: McGraw-Hill Book Company, 1952.

James, Alan. The Politics of Peace-keeping. London: Chatto and Windus, 1969.

Janowsky, Oscar I. Nationalities and National Minorities. New York: The Macmillan Company, 1945.

Kaeckenbeeck, Georges. The International Experiment of Upper Silesia. New York: Oxford University Press, 1942.

Kellor, Frances and Antonia Hatvay. Security Against War. Vol. 1. New York: The Macmillan Company, 1924.

Kluyver, C.A. Documents on the League of Nations. Leiden: A.S. Siijthoff's Uitgeversmaatschappij, 1920.

Knudson, John I. A History of the League of Nations. Atlanta, Ga.: Turner E. Smith & Co., 1938.

Ladas, Stephen P. The Exchange of Minorities: Bulgaria, Greece and Turkey. New York: Macmillan Co., 1932.

Lall, Arthur. Modern International Negotiation. New York: Columbia University Press, 1966.

Langsam, Walter C. (ed.). Documents and headings in the History of Europe 1918. Chicago: J.B. Lippincott Co., 1939.

Laponce, J.A. The Government of the Fifth Republic. Berkeley, Calif.: University of California Press, 1961.

Lapradelle, Albert G. de (ed.). La Paix de Versailles. 12 Vols. Paris: Les Editions Internationales, 1921-1939.

Leonard, L. Larry. International Organization. New York: McGraw-Hill Book Company, 1921.

- Levermore, Charles H. What the League of Nations Has Accomplished in One Year. New York: The Brooklyn Daily Eagle, 1921.
- Lowell, Abbott Lawrence. The Corfu Crisis: The Council of the League of Nations and Corfu. Boston: World Peace Foundations, 1923.
- _____. The Mediation Process. Ph.D. Dissertation, Massachusetts Institute of Technology, 1951.
- Luard, Evan. Conflict and Peace in the Modern International System. Boston: Little, Brown and Company, 1968.
- Luard, Evan (ed.). The International Regulation of Frontier Disputes. London: Thames and Hudson, 1970.
- Macartney, Carlisle Aylmer. National States and National Minorities. New York: Russell & Russell, 1968.
- Mander, L.A. Foundations of Modern World Society. Stanford: Stanford University Press, 1941.
- Mangone, Gerald J. A Short History of International Organization. New York: McGraw Hill Book Company, Inc., 1954.
- Miller, David Hunter. The Drafting of the Covenant. 2 Vols. New York: G.P. Putnam's Sons, 1928.
- Mitrany, David. A Working Peace System. Chicago: Quadrangle Books, 1966.
- Moreau, Félix et Joseph Delpech. Les Règlements des Assemblées Législatives Paris: N. Giard & E. Brière, 1907.
- Morley, Felix. The Society of Nations. Washington: The Brookings Institution, 1932.
- Munro, Dana Gordon. The Latin American Republics. New York: D. Appleton-Century Company Inc., 1942.
- Munro, William Bennett and Morley Ayearst. The Governments of Europe. 4th Edition. New York: The Macmillan Company, 1954.
- Myers, Denys P. Handbook of the League of Nations. New York: World Peace Foundations, 1935.

Myers, S.D., Jr. (ed.). International Institutions and World Peace.
Dallas: Institute of Public Affairs, Southern Methodist University,
1937.

Nicolson, Harold. Peace-Making 1919. New York: Harcourt, Brace
and Company, 1939.

Northege, F.S. and Donelan, M.D. International Disputes: The
Political Aspects. London: Europa Publishers for the David
Davis Memorial Institute of International Studies, 1971.

Northege, F.S. and Grieve, M.J. A Hundred Years of International
Relations. London: Gerald Duckworth and Co. Ltd., 1971.

Ogg, Frederick A. and Harold Zinc. Modern Foreign Governments.
Revised Edition. New York: The Macmillan Company, 1953.

Ottlik, Georges. Annuaire de la Société des Nations 1920-1927.
Geneva: The Geneva Publishing Company, 1927.

Petrie, Charles (Sir). The Life and Letters of the Right Hon. Sir
Austen Chamberlain. London: Cassell and Company Limited,
1939.

Pierre, Eugène. Traité de Droit Politique, Electoral et Parlementaire.
3rd Edition. Paris: Imprimerie Motteroz et Martinet, 1908.

Potter, Pitman B. An Introduction to the Study of International
Organization. New York: The Century Company, 1923.

Prisckle, Elmer (ed.). Systems of Integrating the International
Community. Princeton, N.J.: D. Van Nostrand Company,
Inc., 1964.

Pollock, Frederick. The League of Nations. London: Stevens and
Sons, Limited, 1920.

Rappard, William E. International Relations as Viewed from Geneva.
New Haven: Yale University Press, 1925.

_____. The Quest for Peace Yesterday and Today. London:
David Davis Memorial Institute of International Studies, 1954.

Reddie, Samuel George. The Great Delusion. London: Marshall
Brothers Limited, 1926.

Riches, Cromwell A. The Unanimity Rule and the League of Nations. Baltimore: The Johns Hopkins Press, 1933.

Riddell, Walter A. Documents on Canadian Foreign Policy 1917-1939. Toronto: Oxford University Press, 1962.

Robinson, Jacob. Were Minorities Treaties A Failure? New York: Antin Press, Inc., 1943.

Ronaldshay, Lawrence John Lumley Dundass (Earl) (Marquis of Zetland). The Life of Lord Curzon. London: Ernest Benn Limited, 1928.

Rovino, Arthur W. The First Fifty Years: The Secretary-General In World Politics 1920-1970. Leiden, A.W. Sijhoff's, 1970.

Sait, Edward McChesney. Government and Politics in France. New York: World Book Company, 1921.

Schelling, Thomas. The Strategy of Conflict. Cambridge, Mass.: Harvard University Press, 1960.

Schwarzenberger, Georg. The League of Nations and World Order. London: Constable & Co. Limited, 1936.

Schwebel, Stephen M. The Secretary-General of the United Nations. Cambridge, Mass.: Harvard University Press, 1952.

Scott, James Brown (ed.). Reports of the Hague Conferences of 1899 and 1907. Oxford: At the Clarendon Press, 1917.

Seymour, Charles. The Intimate Papers of Colonel House. New York: Houghton Mifflin Company, 1928.

Sherman, J.H. The Parlement of Paris. London: Eyre and Spottiswoode, 1968.

Shore, William I. Fact-Finding in the Maintenance of International Peace. New York: Oceana Publishers, Inc., 1970.

Shortwell, James T. At the Paris Peace Conference. New York: The Macmillan Company, 1937.

Simmel, George. Conflict. Glencoe, Ill.: The Free Press, 1955.

Siotis, Jean. Essai Sur Le Secretariat International. Paris: Librairie Minard, 1963.

Skilling, H. Gordon. Canadian Representatives Abroad. Toronto:
The Ryerson Press, 1945.

Some Aspects of Mediation. Geneva: Carnegie Endowment for Inter-
national Peace, 1970.

Stevens, Carl. Strategy and Collective Bargaining Negotiation.
New York: McGraw-Hill Book Company, 1963.

Stone, Julius. Legal Controls of International Conflict. New York:
Rinehart & Company, Inc., Publishers, 1954.

International Guarantees of Minority Rights. London:
Oxford University Press, 1932.

Sweetser, Arthur. The League of Nations at Work. New York:
The Macmillan Company, 1920.

Tardieu, André. The Truth About the Treaty. London: Hodder
and Stoughton, 1921.

Temperley, H.W.V. (ed.). A History of the Peace Conference of
Paris. 6 Vols. London: Hodder and Stoughton, 1920.

Ten Years of World Co-operation. Geneva: Secretariat of the League
of Nations, 1931.

Tillman, Seith P. Anglo-American Relations at the Paris Peace
Conference. Princeton, N.J.: Princeton University Press,
1961.

Toscano, J.V. and P.E. Jacob (eds.). The Integration of Political
Communities. Philadelphia: Lippincott, 1964.

Waldock, Humphrey (Sir). The Peaceful Settlement of International
Disputes. London: David Davis Memorial Institute of Inter-
national Studies, 1966.

Walp, Paul K. Constitutional Development of the League of Nations.
Lexington, Ky.: University of Kentucky Press, 1931.

Walters, Francis Paul. A History of the League of Nations. London:
Oxford University Press, 1952.

Wambaugh, Sarah. Plebiscites Since the World War. 2 Vols.
Washington, D.C.: Carnegie Endowment for International
Peace, 1933.

Warren, Edgar Lovett. The Settlement of Labour-Management Disputes. Rio Piedras, Puerto Rico: University of Puerto Rico Press, 1951.

Webster, C.J. and Sydney Herbert. The League of Nations in Theory and Practice. Boston: Houghton Mifflin Company, 1933.

Wolfers, Arnold. Britain and France Between Two Wars. Hamden, Conn.: Archon Books, 1963.

Woo, Chiang Hwa. Pacific Settlement of International Disputes by the Security Council. Berkeley, Calif.: Ph.D. Dissertation for University of California, 1949.

Wright, Quincy. The Study of War. Chicago: The University of Chicago Press, 1942.

Wright, Quincy (ed.). The World Community. Chicago: The University of Chicago Press, 1948.

Young, Oran R. The Intermediaries: Third Parties in International Crises. Princeton, N.J.: Princeton University Press, 1967.

Zimmern, Alfred (Sir). The League of Nations and the Rule of Law. London: Macmillan and Co. Limited, 1936.

(F) ARTICLES

Alger, Chadwick F. "Comparison of Intranational and International Politics." American Political Science Review, Vol. 57 (1963), 406-419.

Barkun, M. "Conflict Resolution Through Implicit Mediation." The Journal of Conflict Resolution, Vol. 8, No. 2 (1964), 121-130.

Blood, R.O., Jr. "Resolving Family Conflict." The Journal of Conflict Resolution, Vol. 4, No. 2 (1960), 209-219.

Brecher, Michael, Blema Steinberg, and Janice Stein. "A Framework for Research in Foreign Policy." The Journal of Conflict Resolution, Vol. XIII, No. 1, March, 1969, pp. 75-101.

Claude, Inis L., Jr. "The Symbolic Significance of the United Nations." The Virginia Quarterly Review, Vol. 47, No. 4 (Autumn, 1971), 481-504.

Cleveland, Harlan. "Crisis Diplomacy." Foreign Affairs, Vol. 41, No. 4 (1963).

Cole, David L. "Government in the Bargaining Process: The Role of Mediation." The Annals of the American Academy of Political and Social Science, Vol. 333 (January, 1964), 42-58.

Domke, Martin. "The Settlement of Disputes in International Trade." University of Illinois Law Forum (1959), 402-415.

Douglas, Ann. "The Peaceful Settlement of Industrial and Intergroup Disputes." The Journal of Conflict Resolution, Vol. 1, No. 1 (1957), 69-81.

_____. "What Can Research Tell Us About Mediation?" Labour Law Review, Vol. 6, No. 8 (August 1955), 545-552.

Dulles, John F. "The Future of the United Nations." International Conciliation, No. 441 (1948), 579-680.

_____. "A First Balance Sheet of the United Nations." International Conciliation, No. 420 (1946), 176-211.

Eagleton, Clyde. "Covenant of the League of Nations and Charter of the United Nations; Points of Difference." U.S. Department of State Bulletin, Vol. 13, No. 321 (August, 1945), 263-269.

Falk, Richard A. "International Jurisdiction: Horizontal and Vertical Conceptions of Legal Order." Temple Law Quarterly (1959), 295-320.

Goodrich, Leland M. "From League of Nations to United Nations." International Organization, Vol. 1 (1947), 3-21.

_____. "The Pacific Settlement of International Disputes." American Political Science Review, Vol. 39 (1945), 956-957.

Gordon, King J. "Prospects for Peace-Keeping." International Journal, Vol. XXV, No. 2 (Spring, 1970), 370-387.

Holmes, John W. "Mediation or Enforcement?" International Journal, Vol. XXV, No. 2 (Spring, 1970), 338-404.

- Holsti, K.J. "Resolving International Conflicts: A Taxonomy of Behaviour and Some Figures on Procedure." The Journal of Conflict Resolution, Vol. 10, No. 3 (Sept. 1966), 272-296.
- Hyde, James N. "Peaceful Settlement Studies in the Interim Committee." International Conciliation, No. 444 (1948), 531-578.
- Kane, R.K. "The Security Council." Foreign Affairs, Vol. 24 (1945), 12-45.
- Kelsen, Hans. "Organization and Procedure of the Security Council." Harvard Law Review, Vol. 59 (1946), 1087-1121.
- _____. "The Settlement of Disputes by the Security Council." The International Law Quarterly, Vol. 2, No. 2 (Summer, 1948), 173-213.
- Landsberger, Henry A. "Interim Report on a Research Project in Mediation." Labour Law Journal, Vol. 6, No. 8 (August, 1955), 552-560.
- Liang, Yuen-Li. "Some Aspects of the Work of the Interim Committee of the General Assembly: Pacific Settlement of Disputes." American Journal of International Law, Vol. 42 (1948), 895-900.
- Lovell, Hugh G. "The Pressure Lever in Mediation." Industrial and Labour Relations Review, Vol. 6, No. 1 (October, 1952), 20-30.
- Meltzger, Stanley D. "Settlement of International Disputes by Non-judicial Methods." Journal of International Law, Vol. 48 (1954), 408-420.
- Meyer, Arthur. "Function of the Mediator in Collective Bargaining." Industrial and Labour Relations Review, Vol. 13, No. 2 (January, 1960).
- Michalak, Stanley J. "United Nations and The League." In Leon Gordenker (ed.), The United Nations and International Politics. Princeton, N.J.: Princeton University Press, 1971.
- Mohn, Paul. "Problems of Truce Supervision." International Conciliation, No. 478 (1952).
- Myers, Denys P. "Liquidation of League of Nations Function." American Journal of International Law, Vol. 42, No. 21 (April, 1948), 320-354.

"Pacific Settlement of Disputes in the Covenant of the League of Nations and Charter of the United Nations: A Paper Issued by the Reference Division of the United Nations Information Organization, London." International Conciliation, Vol. 420 (April, 1946), 197-211.

Podell, Jerome E., and William M. Knapp. "The Effect of Mediation on the Perceived Firmness of the Opponent." The Journal of Conflict Resolution, Vol. 13, No. 4 (December, 1969), 511-520.

Rehmus, Charles M. "The Mediation of Industrial Conflict: A Note on the Literature." The Journal of Conflict Resolution, Vol. 9, No. 1 (March, 1965), 118-126.

Rogers, Lindsay. "Parliamentary Commissions in France." Part I, Political Science Quarterly, Vol. 38, No. 3 (September, 1923), 413-442.

_____. "Parliamentary Commissions in France." Part II, Political Science Quarterly, Vol. 38, No. 4 (December, 1923), 602-635.

Sohn, Louis B. "The Role of International Institutions As Conflict-Adjusting Agencies." The University of Chicago Law Review, Vol. 28 (Winter, 1961), 205-257.

Tandon, Yashpal. "The Peaceful Settlement of International Disputes." International Relations, Vol. 2, No. 9 (April, 1964), 555-587

_____. "Consensus and Authority Behind United Nations Peacekeeping Operations." International Organization, Vol. 21 (1967).

Valavanis, Stefan. "The Resolution of Conflict When Utilities Interact." The Journal of Conflict Resolution, Vol. 2, No. 2 (June 1958), 156-169.

Wageneh, Richard W. van. "The Concept of Community and Future of the United Nations." International Organization, Vol. 19, No. 3 (Summer, 1965), 812-827.

Williams, John Fische (Sir). "The Pan-American and League of Nations Treaties of Arbitration and Conciliation." British Year Book of International Law (1929), 14-31.

Young, Oran R. "Intermediaries: Additional Thoughts on Third-Parties." The Journal of Conflict Resolution, Vol. XVI, No. 1, March 1972, p. 56.