

at which it has discharged heavier responsibilities or responded more readily to the changing requirements of a revolutionary epoch.'

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THE DISSOLUTION OF THE LEAGUE OF NATIONS

THE political activities of the League of Nations may be said to have ceased with the expulsion of the Union of Soviet Socialist Republics during the Assembly's session of 1939, but to maintain it in existence as a going concern, together with the International Labour Organization, the other part of the Siamese twin organization created by Part XIII of the Treaty of Versailles, continued to be the policy of the governments of the British Commonwealth of Nations and of most of the other League Members. It still possessed potential political utility, if only as the nucleus of a new world organization, and it still was capable of useful work in a number of non-political fields such as economic and financial research, particularly in connexion with post-war reconstruction considered in the light of events since 1919, public health including measures necessitated by the war, control of the manufacture of narcotic drugs and of the illicit traffic in such drugs. The Assembly during the crisis of 1938, and at its session of 1939, had anticipated the possibility that neither the Assembly itself nor the Council would be able to meet, and had adopted resolutions which in effect transferred to the Secretary-General acting with the approval of the Supervisory Commission and, as regards the Labour Organization, to its Director acting with the Commission's approval, enough of the powers of the two supreme authorities of the League to make it possible to maintain not merely the existence of the League and the Labour Organization but also their efficient operation on a reduced scale. The Permanent Court of International Justice also continued in being, although the election of the whole court which should have been held in 1939 had not taken place, the judges being required by an express provision of the Statute to retain office until their successors were appointed. The Court was, however, condemned to inactivity from an early date in the war.

As the war progressed, however, and the Union of Soviet Socialist Republics and the United States of America were successively involved, it became increasingly improbable that the League of Nations as established by the Covenant would survive, even in a modified form. Not merely had its Members failed to make it a political success but it had incurred the enmity of the Soviets and was through no fault of its own sufficiently unpopular in the United States to prevent any attempt to base upon it a new system of security. The Atlantic Charter did not mention it. The Dumbarton Oaks Proposals contemplated a wholly new organization. When the fifty-one original Members of the United Nations, including the great majority of the League's own Members, signed the Charter of the United Nations on 26 June 1945, they rendered the early dissolution of the League inevitable. At the same time they reaped the benefits of the wise policy which had refused to allow it to collapse and had on the contrary maintained its structure, equipment, and finances intact and continued its non-political activities. The Agreement which was signed at the same time as the Charter, officially known as the Interim Arrangements, and which established a Preparatory Commission to prepare the way for the sessions of the organs of the United Nations, provided that the Commission should: 'Formulate recommendations concerning the possible transfer of certain functions, activities and assets of the League of Nations which it may be considered desirable for the new Organisation to take over on terms to be arranged.'

¹ Paragraph 4 (c) of Interim Arrangements.

Even before the adoption of the Charter the initiative in preparing for the orderly consideration of the problems which would arise in connexion with the League at the end of the war had been taken in Geneva and in London. At the end of 1943 the Acting Secretary-General caused a booklet to be prepared classifying and giving an analytical account of the functions attributed to the League by international agreements other than the Covenant and the Statute of the Court.¹ In London a committee under the chairmanship of the Legal Adviser of the Foreign Office drew up a report, dated 19 February 1945, containing a comprehensive plan for the dissolution of the League and the disposal of its functions and assets. Extracts from this plan were communicated by the United Kingdom Government to the United Nations and, although not followed in many of its details, it formed, with the information supplied by the Acting Secretary-General of the League, the indispensable basis for the examination of the questions at issue.

The process by which preparation was made for the assumption of their functions by the organs of the United Nations was curiously elaborate and protracted. After the Preparatory Commission had held in San Francisco a first session consisting of one meeting, another body provided for in the Interim Arrangements² which was called the Executive Committee and was identical in composition with the Executive Committee of the San Francisco Conference, sat in London from 16 August to 24 November to draw up recommendations to the Commission. It was therefore in the League of Nations Committee of the Executive Committee that the League's fate, which depended on the extent to which the new organization was prepared to profit by the work it had done and the assets which it could furnish, was first discussed.

The Committee began by referring to a legal sub-committee the special problem of the League's functions under international agreements.³ A simple solution was found for part of the problem, namely, the clauses which related to services to be performed for the Parties by the League Secretariat, such as custody of the signed originals, receipt of ratifications, accessions and denunciations, and notification of these acts to the states concerned. It was held that the custody of the originals and the services ancillary thereto could properly be transferred from the League Secretariat to that of the United Nations, without amending the text of the agreements, since to do so by agreement between the two organizations could not affect the relations between the Parties. This course has accordingly been followed under decisions of the Assemblies of the two organizations. Functions affecting the operation of the agreements could clearly not be transferred except by agreement of the Parties. It was therefore only possible for the United Nations to declare its willingness to consider which functions of this nature it would be ready to assume. The only case to which this decision is likely to apply is that of the functions hitherto belonging to the League under the international conventions which deal with narcotic drugs. Certain of these functions are essential for the maintenance of the system of control over manufacture and illicit traffic. A Protocol amending the conventions to fill the gap left by the disappearance of the League was drafted by the Economic and Social Council and was adopted by the General Assembly of the United Nations during the Second Part of its First Session.

¹ Powers and Duties attributed to the League of Nations by International Treaties (Official No. C. 3, M. 3, 1944, v).

² Paragraph 3 of Interim Arrangements.

³ For the United Nations resolution dealing with the matters discussed in this paragraph see Resolutions adopted by the General Assembly during the First Part of its First Session, p. 35. The relevant League of Nations resolution is on p. 5 of Document A. 33, 1946.

The main task of the League of Nations Committee was more complicated. It had to survey the League's activities, inform itself of its financial position, consider the utility to the new organization of its assets in buildings and equipment and personnel, and take account of its relationship to the International Labour Office, which was in process of preparing the international agreements necessary for the purpose of enabling it to survive the dissolution of the League and was on the alert to prevent any interference with its rights. It is not remarkable that the report which the Committee drew up, and the recommendations based on that document which were adopted by the Executive Committee, failed to give a clear picture of the policy to be followed.¹ Moreover, at the outset, with a view to simplifying its task, the Committee had accepted the idea of a total transfer of the League's functions and assets to the United Nations, subject to exceptions and without prejudice to future action. Although the results of the Committee's work bore no resemblance to such an operation, the language appropriate to it still appeared in the report and the recommendations and caused the Soviet delegation unexpectedly to repudiate the report at the very end of the Committee's session on the ground that it made the United Nations appear to be the successor in law of the League. The recommendations accordingly failed to secure unanimity in the Executive Committee. Their chief importance is on the one hand that they called attention to the value of certain League activities, and on the other hand that they made it clear to the Supervisory Commission that the League must wind up its financial affairs without assistance from the United Nations, collecting its arrears of contributions from the defaulting governments and making its own arrangements with regard to its pension funds; that the United Nations did not desire to make either a profit or a loss on any assets which it took over from the League; and that it would not take over the staff of the Secretariat but only such members as it might select—all points of great interest for the League.

A new start was made in the Preparatory Commission (24 November to 22 December 1945). Its seventh Committee, which dealt with the problem of the League, felt no difficulty in dispelling the suspicions of the Soviet delegation by admitting that misunderstanding could be avoided by speaking of the United Nations 'taking up or assuming' functions hitherto performed by the League rather than of its 'taking over' such functions. It also accepted a Soviet suggestion that the Economic and Social Council should consider what functions and activities should be assumed. This enabled the Committee to put forward unanimously a recommendation which covered the whole of the functions belonging to the League in its own right and which in the form given to it by the General Assembly reads as follows:²

'1. The General Assembly requests the Economic and Social Council to survey the functions and activities of a non-political character which have hitherto been performed by the League of Nations, in order to determine which of them should, with such modifications as are desirable, be assumed by organs of the United Nations or be entrusted to specialised agencies which have been brought into relationship with the United Nations. Pending the adoption of the measures decided upon as the result of this examination, the Council should, on or before the dissolution of the League, assume and continue provisionally the work hitherto done by the following League departments: the Economic, Financial and Transit Department, particularly the research and statistical work; the Health Section, particularly the epidemiological service; the Opium Section and the secretariats of the Permanent Central Opium Board and Supervisory Body.'

¹ For the Recommendations and the Report of the Committee see *Report by the Executive Committee to the Preparatory Commission*, chapter ix, p. 108.

² *Resolutions Adopted by the General Assembly*, p. 35.

'2. The General Assembly requests the Secretary-General to make provision for taking over and maintaining in operation the Library and Archives and for completing the League of Nations treaty series.'

'3. The General Assembly considers that it would also be desirable for the Secretary-General to engage for the work referred to in paragraphs 1 and 2 above, on appropriate terms, such members of the experienced personnel as the Secretary-General may select.'

There remained the question of acquiring the League's assets in buildings, land, and equipment for the United Nations. The Preparatory Commission on 18 December 1945 set up 'a committee to enter, on its behalf, into discussion with the League of Nations Supervisory Commission, which has been duly authorised by the Members of the League of Nations, for the purpose of establishing a common plan for the transfer of the assets of the League to the United Nations on such terms as are considered just and convenient'. The plan was to be subject to approval by the General Assembly.¹

It was not until the Committee so appointed met the Supervisory Commission that direct relations were established between the League and the United Nations, but the Supervisory Commission had closely followed the discussions in the Executive and Preparatory Commissions and had formed definite views as to how the interests of the United Nations could best be promoted without injustice towards the League Members, particularly those states whose contributions had kept the organization alive during the war. Its attitude was wholly friendly and helpful, and the 'Common Plan'² which resulted from the negotiations was largely the result of its efforts. The most difficult points were the method by which payment would be made to the Members of the League and the value to be put on the assets to be transferred, consisting of the Secretariat Building, Assembly Building, other real estate in proximity to these buildings, office equipment in the buildings and branch offices, stationery, stocks of publications, the vast collection of books in the Library, the Archives, and finally the books, stationery, stocks of publications and office equipment of the Permanent Court of International Justice at The Hague. The Plan provided that all the assets should be valued at the price they cost the League, no charge being made for the numerous costly gifts which the League had received. A proposal to value the buildings at a later date on account of the uncertainty as to the use which the United Nations would be able to make of them, was successfully resisted by the Commission. Payment was to be made by the United Nations granting credits in its books, available to be drawn upon after 31 December 1948 for purposes approved by the General Assembly, to those League Members which the League considered to be entitled to shares in the payment, and in proportion to the share allotted to each such Member, subject to the proviso that League Members not belonging to the United Nations would be excluded from participation in the system of credits and would receive their shares out of League funds. The Plan provided for use of the Assembly Hall and appropriate additional accommodation by the International Labour Organization at times and on financial terms to be agreed from time to time, and it made the Library available to the Organization on the same conditions as to other official users. The United Nations and the League were to conclude with the Swiss Government whatever agreements

¹ *Report of the Preparatory Commission*, p. 118.

² Text in Annex to the Supervisory Commission's 'Report on Discussions with the Representatives of the United Nations on Questions of the Transfer of League of Nations Assets' (Official No. A. 8, 1946, x). The report of the United Nations Committee is printed in the League Document A. 9, 1946, and the United Nations Document A. 18.

might be necessary in connexion with the transfer of the League's assets. This Common Plan was approved by the General Assembly on 12 February 1946.¹

The Assembly of the League of Nations met for its last session in April 1946 to pronounce, and pronounce favourably, upon the manner in which the League's administration had been conducted since the winter of 1939, to provide for winding up the League's affairs, and to declare it to be dissolved. The problems to be faced had already been foreseen and solutions prepared. So far as they were administrative in character the efforts of the Supervisory Commission had reduced them to their simplest terms and the Assembly had little or no occasion to alter its proposals. Legally the Assembly was faced with an operation for which it would be hard to find a precedent. Methods immune from theoretical criticism, but highly inconvenient and cumbrous in practice, could have been found. The Members of the League could have negotiated a treaty among themselves and thereby vested in the Assembly express power to take the necessary measures. Perhaps the same result might have been secured by inviting them to deposit instruments formally agreeing to the dissolution of the League by action of the Assembly. But the League was a community of states whose Members had all joined or were known to desire to join a rival community established for substantially the same purposes, and, so far as their enemy or ex-enemy character did not deprive them of a voice in the matter, all were anxious for a speedy termination of their commitments to the League. It would have been hardly tolerable to adopt a procedure subject not only to the delays which always attend the conclusion of multi-partite treaties but also to the risk of encountering some difficulty of parliamentary procedure or constitutional practice in some of the states concerned. Accordingly the United Kingdom Foreign Office took the responsibility of drafting a resolution by which the Assembly, an organ in which all League Members except enemies and ex-enemies could, if they chose, be represented and make their wishes felt, and an organ which must be unanimous in its decisions, would declare that 'With effect from the day following the close of the session of the Assembly, the League of Nations shall cease to exist except for the sole purpose of the liquidation of its affairs as provided in the present Resolution' and would set up a board of representatives of League Members to carry out the liquidation. The attitude which the Dominion governments and other League governments would assume towards such a proposal was tested by circulating for their observations a memorandum which described in detail the policy proposed, and significantly opened with the statement that His Majesty's Government in the United Kingdom believed that in the circumstances the Members of the League would regard a resolution of the Assembly as both a sufficient and a proper method of effecting the League's dissolution. The absence of comment showed that the governments saw nothing shocking in this proposition, and the draft, with the changes made in it by the Assembly, became the instrument by which the League was dissolved.

Under the Resolution as adopted,² the Assembly and the Council together with the whole system of Committees of the League disappear and a 'Board of Liquidation' appointed by the Assembly, to which the Secretary-General is responsible, receives full power to wind up the League in accordance with the Resolution and with other decisions taken during the session. Vacancies on the Board are to be filled by co-option by the remaining Members. The staff of the Secretariat, who had all been given notice terminating their appointments, are put on a temporary basis from 1 August 1946. The Resolution requires enough staff to be maintained to enable the United Nations to take

¹ *Resolutions adopted by the General Assembly*, p. 36.

² Document A. 32 (1), 1946, x, p. 12.

up under the best possible conditions the League activities which it desires to assume. The Common Plan is approved and direction given that its terms shall be carried out in the manner described in the Report of the Finance Committee.¹ The effect of this is, briefly, that the share of each Member State in the payment due for the transferred assets will depend upon the ratio between the sum total of the contributions which it has paid and the sum total of all the contributions which have been paid, subject, however, to the proviso that any arrears due at the time of settlement are to be deducted from the debtor Member's share. The distribution of any balance remaining after the liquidation has been completed will be made in the same proportions. The Board has the duty of collecting arrears of contributions and the right to make compositions with debtor governments; and at the end of the liquidation it is to make a report to the Labour Organization on any arrears of contributions due to that institution in order that they may be collected.² As some check upon its proceedings, the Board is required to make interim reports to the governments at three-monthly intervals and to take account of any observations to which these reports may give rise. When its task is accomplished and the final accounts audited, the Board must make and publish a report to the governments giving a full statement of the measures which it has taken, and will declare itself to be dissolved. The Secretary-General will then retire from office and no further claims upon the League will be recognized.

Other provisions of the Resolution relate to the International Labour Organization. Nothing in the Resolution is to prejudice the continued existence of the Labour Office or the measures taken and to be taken to make in the constitution of the Labour Organization such changes as may be required as a result of the dissolution of the League. Financial provision of various kinds is made for the Organization, including the transfer to it of the Working Capital Fund. Measures are to be taken to vest in it in full ownership the land and buildings which it occupies and which have hitherto been entered in the land register of the Canton of Geneva in the name of the League. The Statute of the League of Nations Tribunal is amended so as to convert it into a court maintained by the Labour Organization to hear complaints from members of the staff of the Labour Office and members of the Staff Pensions Fund. Two further groups of articles contain the provisions necessary to enable the Organization to take over, if it is willing to do so, the administration of the Staff Pensions Fund and of the Pensions Fund for the former Judges of the Permanent Court of International Justice.

The creation by Chapter XIV of the United Nations Charter of the International Court of Justice to serve the same purposes and with almost the same Statute as the Permanent Court made the dissolution of the latter institution as inevitable as that of the League of Nations and presented the governments with much the same legal problem as arose in the case of the League. Administratively the Court was part of the League but the international instrument from which it derived its existence and jurisdiction was the signed and ratified Protocol of Signature of its Statute. In the Executive Committee it was generally felt that the dissolution of the Court could only

¹ Document A. 32 (1), 1946, x, p. 10.

² Before and during the Assembly's session compositions were made with or arrears of contributions were paid up by some eighteen governments. After reporting this fact, the Finance Committee's Report observes: 'It is worth recording that, over the full period of the League's activity from its inception in 1919 to December 31st, 1945, a little over 90% of the annual income Budgets has been received, upwards of 4½% cancelled, and about 1½% consolidated for payment over periods of years. Therefore, only 4% of the contributions are still outstanding. Contrary to impressions prevailing in ill-informed circles, the situation may be regarded as very satisfactory' (ibid., p. 4).

be effected by agreement between the Parties to the Protocol. The consent of states which had belonged to the Axis could be extracted from them by appropriate clauses in the peace treaties. All the other Parties, with the exception of Spain, were members of the Preparatory Commission or of the League of Nations. If they all signified their consent, Spain could, it was thought, be disregarded, although this idea aroused some protest. It was decided to introduce in the Preparatory Commission and in the League Assembly resolutions referring to the necessity of effecting the Court's dissolution which would be so drafted that, in the expected event of all the states whose consent was required being represented in one or the other body, the voting of the two resolutions would make it possible to treat the Court as dissolved. A resolution drawn up with this purpose by the Executive Committee was adopted by the Preparatory Commission,¹ but when the corresponding resolution was presented to the competent Committee of the League Assembly, that body abandoned the idea of dissolution by consent of the Parties. It very sensibly took the view that the logic of events afforded sufficient justification for declaring the Court to be dissolved. The resolution which on the Committee's advice was adopted by the Assembly was as follows:

'The Assembly of the League of Nations,

'Considering that, by Article 92 of the Charter of the United Nations, provision is made for an International Court of Justice which is to be the principal judicial organ of the United Nations and which is to be open to States not members of the United Nations on terms to be determined by the United Nations;

'Considering that the establishment of this Court and the impending dissolution of the League of Nations render it desirable that measures for the formal dissolution of the Permanent Court of International Justice shall be taken;

'Considering that the Preparatory Commission of the United Nations, in a resolution of December 18th, 1945, declared that it would welcome the taking of appropriate steps by the League of Nations for the purpose of dissolving the Permanent Court, and that this resolution records the assent to the dissolution of the Permanent Court of all the Members of the United Nations which are Parties to the Protocol of Signature of the Permanent Court, whether Members of the League or not;

'Considering that all the Judges of the Permanent Court have resigned and that on the dissolution of the League no machinery will exist for the appointment of new Judges;

'Resolves:

'That the Permanent Court of International Justice is for all purposes to be regarded as dissolved with effect from the day following the close of the present session of the Assembly, but without prejudice to such subsequent measures of liquidation as may be necessary.'

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ACQUISITION OF BRITISH NATIONALITY THROUGH ABSENTEE MARRIAGES

DURING the Second World War the United States Government adopted a general practice of denying applications for American passports made by American citizens whose proposed journeys were not directly connected with the war effort or otherwise in the national interest. There was no such general practice relating to the issuance of British passports to British subjects in the United States who desired to travel abroad, and consequently many applications for British passports were made by persons in the United States who claimed British nationality in addition to American citizenship.

¹ *Report of the Preparatory Commission*, p. 57.