

The First Committee, which had before it the reports of the Conference, together with convention, &c., were divided in opinion. Had the Conference been a failure? a partial failure? a success? or a partial success? Should preparatory work be continued with a view to future Conferences, or should it be postponed? So varied were the views and the motions resulting from them that the First Committee decided to recommend the Assembly to adjourn the question to next year, and a resolution on these lines was passed by the Assembly on the 3rd October. (See Document A. 82.)

AMENDMENTS TO THE COVENANT.

It will be recollected that last year the British delegation proposed to the Assembly the amendment of the Covenant of the League of Nations in order to bring it into harmony with the Pact of Paris. Indeed, draft amendments were put forward and were sent to a special committee created to examine and report. It was this committee's report (Document A. 8) which came before the First Committee.

The debate in the First Committee had hardly begun before it became apparent that the proposed amendments would undergo rigorous examination and dissection.

We may dismiss the question raised by the Japanese delegate at the outset—whether it was desirable to amend the Covenant. That question has been settled already. What was required was to harmonize the Covenant, which permits war in certain contingencies, with the Pact of Paris, which forbids war.

The amendments proposed by the special committee will be found on page 10 of its report. They follow generally the amendments drafted last year by the British delegation, but with some important variations. The main line of attack on the special committee's proposals was that, if adopted, the cases in which the sanctions provided for in Article 16 of the Covenant could be applied would be increased. Doubtless this is so; but it was contended by the British delegate that the practical effect would be to diminish the possibility of sanctions having to be applied, since the amendments should decrease the chances of war. Some delegates stated quite frankly that their Governments could not accept an extension of sanctions when literally nothing had been done in the field of disarmament (because, perhaps, the measure of security necessary for disarmament had not been provided); when no definite rules for determining the aggressor had been formulated; and when one had always to reckon with the possibility of the Council being divided into equal groups of about equal strength on the merits of a case under examination. Indeed, the uncertainty which must necessarily prevail in the matter of sanctions cannot but have caused delegates to be hypercritical of amendments bearing on sanctions.

The Pact of Paris condemns the recourse to war for a solution of international troubles, and renounces it as an instrument of national policy; but one cannot help reflecting on the declarations which were made at the time of adherence to the Pact by many of the signatories, and I am doubtful whether these declarations had been taken sufficiently into consideration by the committee which framed the amendments. It was a point which I felt bound to raise in the committee, and I asked whether it was desirable that the essence of these declarations should be included in the amended Covenant. One speaker suggested that these declarations, whilst not affecting the Pact of Paris, modified its application. And what of the Pact of Paris? A few delegates supported their argument that it had only a moral value, by reference to the absence of sanctions to enforce it. Why, they said, should it be necessary, when endeavouring to harmonize the two instruments, to extend the cases in which sanctions provided by the Covenant could be applied? Could not the two instruments well exist side by side, each having its value and force? On the other hand, has not the Pact of Paris a legal as well as a moral strength? Some who held this view contended that new obligations must not be inserted in the Covenant without sanctions being attached to them. How easy it would be for States to break with impunity obligations which had not sanctions to enforce them!

I cannot but regret the attempt to hasten a decision on this question. Most Governments have learned bitter lessons from hasty drafting. The provisions of Article 16 have never been brought into operation. Consequently, when once we begin to consider amendments such as those proposed, we enter the realm of hypothesis, and it is only a constitutional lawyer who fully realizes the difficulty of finding a formula which will cover every hypothetical case and bear only one interpretation.

The debate was becoming lengthy, and a decision was as far off as ever, when it was proposed that the amendments should be sent to a sub-committee for examination and report. This sub-committee consisted of one delegate each from France, the United Kingdom, China, Finland, Germany, Uruguay, Japan, the Netherlands, Roumania, Italy, Greece, Norway, Belgium, and Sweden. It worked hard during the few days which remained, but the task was impossible of achievement. It did, indeed, make modifications of text which it was hoped would go far to meet the various views. But the conflicting views on the application of sanctions to the new obligations were still held, and the doubt as to the incompatibility of the amended Covenant with the declarations made by some Governments when adhering to the Pact of Paris still persisted. The sub-committee, therefore, could not bring itself to recommend the First Committee definitely to accept the amendments, and a resolution to postpone a decision for one year was passed with only two dissentients.

In two respects the text, as amended by the sub-committee shows a decided improvement. The amendment to paragraph 6 of Article 15 as proposed by the Committee of Eleven was of such a nature that there was an appearance, at any rate, of committing all the members of the League in advance to take action recommended by the Council, whereas surely it was the intention of the draftsmen to bind only the parties to a dispute. The draft as it emerged from the sub-committee removes any doubt as to its meaning. The additional paragraph (7 *bis*) to Article 15, proposed by the Committee of Eleven, giving power to the Council, when examining a dispute, to ask the Permanent Court of International Justice for an advisory opinion on points of law, and without a unanimous vote by the Council, was suppressed.