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CANADA: THE LEAGUE OF NATIONS AND THE U.N.O.

by

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P R E F A C E

The subject: CANADA: THE LEAGUE OF NATIONS AND THE U.N.O. appears to fall into three separate sections. Before one begins discussing Canada's role in the League or in the U.N.O. it seems logical to follow the development of Canadian Constitutional History to its conclusion -- the attainment of Canadian statehood in the family of nations. That is what I have attempted to do in Part I of this thesis.

Following this introduction one is prepared to deal with Canada's role in the two relatively recent attempts at guaranteeing the peace of the world. For that reason this thesis is divided into three separate and quite independent studies.

The pitfalls in a thesis of this type are numerous to a student educated outside the territorial limits of Canada, and to one having had virtually no contact with, or knowledge of the country in question. This is my predicament. Therefore, any responsibility for misrepresentation of facts, for false emphasis, or for the mis-interpretation of material presented, deservedly falls upon myself. However, I have attempted to give a complete, fair, and unbiased picture in this study.

Any credit to this work is due to the generous aid of Professor H. F. Angus of the University of British Columbia, who has acted as my advisor and has given me many valuable hints, and much of his time and information. The staff of the Library of the University of British Columbia have my gratitude for their generous aid in securing reference material.

Dr. Alfred Le Roy Burt of the University of Minnesota, and Mr. Con. Michas of Vancouver and Minneapolis were initially responsible for my first interest in Canada. My thanks go out to them, for I now appreciate their country's past and present role in the Family of Nations.

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University of British Columbia,
Vancouver, B. C.,
April, 1946.

P A R T O N E

CANADA'S STATUS
IN THE
FAMILY OF NATIONS

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CANADA: THE LEAGUE OF NATIONS AND THE U.N.O.

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PART ONE

CANADA'S STATUS IN THE FAMILY OF NATIONS

I. The Period Between Confederation and World War I

The possession of a territory, a population, a government, and sovereignty are usually considered to be the requisites of statehood. Canada does have the first three without a question, and she has, also, sovereignty to a great extent. The decision as to whether or not Canada is a state, then, turns on the point of sovereignty. If sovereignty implies nothing more than the right to exchange diplomatic envoys and to enter into treaty relations with other countries; to declare war and make peace; then Canada is a state. But if complete freedom from external control is involved in one's definition of the word sovereignty, the assumption that Canada is a state tends to be negated. She cannot formally amend her own constitution; her highest court of appeals is in another country; and, although she

has a King, he is also King of another people, and resides outside the territorial boundaries of Canada.^{1.}

A brief look into the Constitutional History of Canada will, I believe, support the conclusion that Canada is a state in her own right and, as such, is a full-fledged member of the family of nations, capable of conducting her own international relations, and capable of assuming the responsibilities of all her actions as a sovereign state.

When, in 1783, the Thirteen American Colonies gained their independence, England had on the continent of North America, the Royal Colonies of Canada, New Brunswick, Nova Scotia, and Prince Edward Island. Each had its own governor sent from England, as well as an appointed council, and an elected, though not popularly elected, assembly.

The Colony of Canada was divided into Upper and Lower Canada in 1791 by the Constitutional Act. The fact that there was a wide separation of powers between the governors and their councils, and the assemblies led to continual disagreements and conflicts between the two. A situation arose in each of the Royal Colonies which was not unlike that which had caused the revolt in the Thirteen American Colonies.

1. Clokie, H. McD., "Canadian Government and Politics",
Toronto, Longmans, 1944, pp. 1-15.

Repressive action on the part of England in the case of these American Colonies had proved to be disastrous, and so could it easily prove to be the case with the Colonies to the North. The Rebellion of 1837 proved to the English that the situation was serious. The English Government therefore, commissioned Lord Durham as Governor-General and High Commissioner to investigate and report on the causes of the discontent.

Lord Durham's Report, presented in 1839, opened the door to the beginning of ^{responsible} ~~representative~~ government in the Royal Colonies. The report recommended, among other things, that the colonies be given the same rights, constitutionally, as were in effect in England. It was recommended that Upper and Lower Canada be united into one colony, in the hope, if not expectation, that the French element in British North America would allow itself to become Anglicized. In 1841, by the Act of Union, this recommendation was effected.^{1.} And, by ¹⁸⁴⁹ ~~1846~~ responsible government was actually brought into operation in the colonies. At the time of this grant of responsible government, the English Corn Laws were repealed, and, two years later, the last of the unpopular Navigation Acts were eliminated.

1. Bradshaw, F., "Self-Government in Canada and How It was Achieved", London, Orchard House, 1903, pp.

Responsible government did not prove entirely satisfactory. This was especially true in the Colony of Canada, being made-up, as it was, of two distinct racial groups. Added to this an unusual conjuncture of events made for an uneasy feeling in the Colonies. The loss of American markets for agricultural products effected by the abrogation of the Reciprocity Treaty of 1854 showed the vulnerability of the Colonial Economy, and the sudden withdrawal of Imperial preference in trade with England necessitated drastic economic adjustment. Political Union for the first time, began to be seriously considered as a solution to the numerous problems.

Consequently, in 1864, a meeting of the Maritime Colonies was called in Charlottetown, P.E.I., to consider plans for a legislative union. An uninvited delegation from United Canada attended the Conference and made suggestions for a subsequent meeting to be held in Quebec City to consider plans for a union of all the Colonies. The suggestion was approved, and later in that year the meeting at Quebec City was convened. Here the Quebec Resolutions were formulated as a basis for union. Though the plan failed to be ratified by all the Colonies, it did form the basis for a later meeting held in London in 1866, at which time agreement was finally reached. The plan evolved was put into bill form

and passed the British Parliament as the British North America Act of 1867. The Dominion of Canada, consisting of only four provinces -- Quebec, New Brunswick, Ontario, and Nova Scotia -- came into formal existence on July 1 of that year.¹

It is important to note that the British North America Act did not create a state in the legal sense. Instead, there was created a new and larger colony of a federal nature. The Act was the first great step, one in many, to the road to statehood. A situation was created which made almost certain its ultimate attainment.

The British North America Act, as it stood in 1867, was designed to fit the needs of British policy, and the needs of the colonists in Canada. The federal system represented a compromise on the part of the several colonies whereby they surrendered their rights to the federal government, and received back certain enumerated powers, thereby making for a division of legislative powers. This division of legislative powers between the newly created provinces and the Dominion Government was set down in the Act under Article 91 and 92. A Governor-General, one of whose rights

1. Witte, Carl, "A History of Canada", Toronto,

McClelland, 1935, pp.169-188.

it was to reserve for consideration any statute of the Dominion Government, was appointed as a representative of the Crown in Canada. And, any statute, reserved or not by the Governor-General, could be disallowed by the Queen in Council if it so deemed. The right to amend the Act was also held as a power of the British Parliament.¹ Although not stated in the British North America Act, it was understood that in all cases of conflict over interpretation of powers assigned the provinces and the Dominion Government, the Privy Council, in England, was to be the final determining authority, and its decision was binding on the legislatures of the Dominion and the provinces, as well as on all courts in the Dominion.

Only once has the power to disallow a Canadian bill been used. That was in 1873. A change in the Governor-General's instructions in 1878 eliminated the probability of Royal Assent being denied a legislative act, although the possibility of disallowance was still present. After 1883, it became the accepted practice for the British authorities to consult the Canadian Prime Minister on the acceptability of prospective nominees to the post of Governor-General.

1. 30 Victoria, C.3 (The British North America Act, 1867)

Although these practices were not a part of the written Constitution, (The British North America Act of 1867) of Canada, they did become a part of the conventions of parliamentary practice, and it seemed improbable that there would ever be a reversal of policy.

In the field of foreign relations, all power was held by the British. Canada was not permitted to legislate on matters of international concern, nor could she enter into treaty relations of any sort with a foreign government.

It was in 1871 that Canada made her first step forward in the realm of treaty making. During the negotiation of the Treaty of Washington, Sir John A. Macdonald, a Canadian, was appointed to act as one of the British Plenipotentiaries in the discussions involving Canadian interests on the fisheries question which was under discussion at the time.

It should be noted, in passing, that this treaty was made between Her Britannic Majesty and the United States, and not between Canada and the United States. However, there was a reference made in the body of the treaty providing for legislation on the part of the "Parliament of Canada" before the treaty would go into effect. Thus, it is seen the wishes of Canada were taken into account for the first time in the negotiations of a treaty directly involving Canada.¹

1. Shippe, Lester Burrell, "Canadian-American Relations--1849-1874", Toronto, Ryerson, 1939, pp.370-376.

Britain, in 1879, gave its approval to the nomination of a special High Commissioner to represent Canada as a part of British Delegations in the negotiation of all commercial treaties involving Canada. Although foreign governments were at first reluctant to recognize the position of this High Commissioner, the British Government gave him full support in his claim to take an equal part with the British in foreign negotiations involving Canadian trade.

In 1893 a strictly Canadian treaty was negotiated and signed with France by a Canadian. However, the treaty was signed jointly by the British Ambassador in Paris and a Canadian Minister. Since then, the precedent was established whereby all commercial treaties involving Canada exclusively have been negotiated by Canadians, though not in the name of Canada.^{1.}

Not until 1923, in the Halibut Fishery Treaty, did we have a full recognition of Canada's right to negotiate commercial treaties in her own right. As had been the practice previously, "His Majesty, the King of Great Britain and Ireland, and of the British Dominions beyond the Seas, Emperor of India", was the contracting party. But the treaty

1. Tupper, C. H., "Treaty-Making Powers of the Dominions",

Journal of Society of Comparative Legislation,

New Series XXXVII, 1917, pp. 7-8.

was between Canada and the United States, and Mr. Lapointe, as plenipotentiary, was the first Canadian to alone represent His Majesty. From that time on Canada, herself, has negotiated her own commercial treaties on behalf of His Majesty.¹

Canada did make relatively early advances into the field of international affairs where technical relationships involving matters of purely administrative and non-political matters were involved. When the International Congress of the Universal Postal Union was called in 1906, there was a separate Canadian delegation in attendance. So also was the case at the International Conference for the Protection of Industrial Property in 1911; at the Telegraph Conference in 1912; and at the International Conference on the Safety of Life at Sea in 1913. At all these Conferences the Canadian Delegations were granted their powers by the King, but received their instructions from the Dominion Government, and signed those Conventions approved by the government in the name of the Government of Canada.²

Nationalism asserted itself early in Canadian History. The demand for self-government grew ever louder as the years passed, and, as we have seen, the Government of Canada slowly,

1. The League of Nations Society in Canada, "The Treaty Making Power in Canada", mimeographed, 1938, pp.15-16.

2. Lewis, Malcolm M., "The International Status of the British Self-Governing Dominions". British Year Book of International Law, 1922-23, p.28.

but surely, gained control over domestic affairs and over commercial and technical matters in external affairs. Britain, however, was reluctant to grant full autonomy in the political sphere of international affairs. The Dominion was consulted, on matters affecting their position in the external world, but very often their stand was neither recognized or acknowledged, Britain fearing that the Doctrine of Unity of the Empire might be impaired.

Colonial Conferences were first instituted in 1887 when a meeting between British officials and Dominion Ministers was called to consider the question of defense for the Empire. At this Conference the Dominions were induced to assume their share in general defense measures for the Empire. The idea of calling Colonial Conferences from time to time was carried on thenceforth for the purpose of considering questions as "between His Majesty's Government and His Governments of the self-governing Dominions beyond the Seas".¹ By 1897, the practice was established whereby only the Prime Ministers of the Dominions in the Empire met with the British officials, and we had the emergence of a virtual Cabinet of Cabinets. Sir Wilfrid Laurier, at the Colonial Conference of 1907, suggested that these meetings be known, from then on, as

1. Skelton, Oscar Douglas, "Life and Letters of Sir Wilfrid Laurier", Toronto, Oxford, Vol.II, 1922 p.306

Imperial Conferences, inasmuch as the Conferences were held to consider questions "between His Majesty's Government and His Governments of self-governing Dominions beyond the Seas". At the same time, Sir Wilfrid Laurier made the observation that "We are all His Majesty's Governments". And so, the first formal recognition of Dominion Status as opposed to Colonial Status was made. The principle of the equality of His Majesty's several governments was also sounded.¹

The seeds for Canadian autonomy were planted early in the Country's history, and, although the Commonwealth scheme was probably not in the mind of anyone at the time of the Imperial Conference of 1907, it seems reasonable to presume that here, for the first time, the seeds began to put out roots. For here was the first formal recognition of the equality of the several governments making up His Majesty's Empire.

The next meeting of the Imperial Conference was held in 1911, and again Sir Wilfrid Laurier urged a greater recognition of Dominion autonomy. A proposal for Imperial Parliamentary federation was sponsored by the British Imperialists of the Round Table Group, their idea being to create an Imperial Parliament with power, for the whole of the Empire,

I. Ibid., pp. 306-307.

over foreign policy and defense. Referring to the proposal Mr. Asquith of Great Britain declared: "We cannot ... assent for a moment to proposals which are so fatal to the very fundamental conditions on which our Empire has been built up and carried on".¹ Controversy arose out of the meaning of Mr. Asquith's statement, but it has been generally conceded that he was implying that authority could not be divided between the cabinet and the proposed Imperial Parliament. He felt that foreign policy of the United Kingdom must be determined by a government responsible solely to the British Parliament. With this interpretation in mind, Laurier adopted the same position: Canadian policy must likewise be determined by a government responsible to the Canadian Parliament. In line with this reasoning, it seemed consistent to Mr. Fisher of Australia to ask that the British Government consult the Dominions before committing them to treaties affecting the whole Empire. To this Laurier objected, replying to Mr. Fisher:

We may give advice if our advice is sought, but if your advice is sought, or if you tender it, I do not think the United Kingdom can undertake to carry out that advice unless you are prepared to back that

1. Skelton, Laurier, Vol.II, p.341.

advice with all your strength, and take part in the war, and insist upon having the rules carried out according to the manner in which you think the war should be carried out. We have taken the position in Canada that we do not think we are bound to take part in every war". 1

Matters rested here, for nothing was done to resolve these outbursts of speech. The assertion for autonomy in international affairs had been made, but Britain had not acknowledged these assertions.

II. War and Peace

1914 brought war to the world, and Canada, along with the other British Dominions, was plunged into it by the action of the British Government. The Dominions had not been consulted in any way, and because of this, it was felt that the methods by which they were brought into the war were very unsatisfactory. Although the Dominions co-operated fully with the British in the life and death struggle, they clamored for an understanding with the British whereby there would be no repeat performance in a similar situation.

The Government of Canada was disposed to regard Canadian participation in the war as that of a principal combatant and not as that of a mere satellite. Canada was giving fully and

1. Ibid., p. 343.

unselfishly in men and materials to the cause. Because of this, the Canadian Army Corps was maintained as a separate unit in the field, and ultimately, in 1916, the Canadian troops were brought under the direct control of the Canadian Government, with the establishment of the Ministry of Overseas Military Forces in London.¹

Sir Robert Borden, Prime Minister of Canada, was called to a meeting of the British Cabinet in 1915, thereby gaining a voice in the conduct of the war. In 1917, an Imperial Conference was summoned, and out of this Conference came the Imperial War Cabinet, composed of the Prime Ministers of the self-governing Dominions and the five members of the British War Cabinet. Each of the Ministers was responsible to his own representative Parliament. The Imperial War Cabinet was of great value in the maintenance of co-operation in the conduct of the war. Constitutionally, however, it was of greater importance, for it, along with the regular Imperial Conference meeting resolved that the Dominions had a right to share in the control of foreign policy for the Empire, and that constitutional re-adjustments to that end would be taken as soon as possible after the cessation of hostilities. It

1. "Report of the Royal Commission on Dominion-Provincial Relations", Ottawa, King's Printer, 1940 Book I, p.93.

was agreed that re-adjustment

should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth ... and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several Governments may determine.¹

The Dominion leaders made further demands before the war was over. This was especially true in the case of Sir Robert Borden, the Canadian Prime Minister, and of General Smuts of South Africa. They insisted on full equality with Great Britain in self-government, and equality in the control of foreign affairs. Their concern was that of gaining a voice in the Peace Conference, and with the Armistice in sight, they became more and more vocal in their demands.²

Armistice Day came on November 11, 1918. The war was over, but the problem of the peace was still left to be faced by the Allied Powers. The Supreme War Council of the Allied Nations had decided that representation at the Peace Conference should be on the basis of five delegates for each Great Power. If this was to be the final decision, the Dominions and the Small Powers would be left without a voice.

To satisfy the Dominions, Britain proposed that one of the

1. Proceedings of the Imperial War Conference, 1917, p.61.

2. Baker, P.J., Noel, "The Present Juridical Status of the British Dominions in International Law", London, Longmans, 1929, pp.53-54.

five British Delegates should be a representative of the Dominions and India, the seat being rotated among them according to the subject being discussed. Neither Premier Borden nor the Canadian Cabinet was satisfied with this proposal. Numerous cablegrams were sent between Paris, London, and Ottawa on the situation. The Canadian Government, on January 4, 1919, cabled Sir Robert Borden:

If Peace Conference in its composition is to express spirit of democracy for which we have been fighting, as Cabinet thinks it should; small Allied Nations like Belgium which fought with us throughout the War should be entitled to representation throughout the whole Conference, even if limited to one member, and, if this were agreed, proposal that Canada should have same representation as Belgium and other small Allied Nations would be satisfactory, but not otherwise. Canada has had as many casualties as the United States and probably more actual deaths. Canadian people would not appreciate five American delegates throughout the whole Conference and no Canadian entitled to sit throughout Conference, nor would they appreciate several representatives from Great Britain and Canada none. There will be great disappointment here if you are not full member of Conference. We fully appreciate that you are doing everything in your power to secure suitable representation for Canada.¹

Great Britain's plan for Dominion representation at the Conference, it can be seen, was not satisfactory, although the Dominions, under the plan, would have been in a better position than the other small nations who were not actually

represented, but were to be present when questions concerning them were under discussion. Canada's solution to the problem was to press the cause of all the Small Powers, seeing to it that the Dominions received the same representation as would the lesser powers. After considerable debate among the Big Five Powers, a system for representation at the Peace Conference was finally settled upon. The machinery consisted of the Plenary Conference, the Bureau, the Supreme Council, Commissions, and a Secretariat.¹ The two with which we are most concerned in this study is the Supreme Council and the Plenary Conference.

In the Supreme Council each of the Big Five Allied Powers was to have five delegates, thereby making a Council of Twenty-Five. Great Britain agreed to let the Dominions have one of her five seats, thereby giving them a voice in the most important body.

In the Plenary Conference the Dominions were represented in two ways. Canada, Australia, and South Africa, as small nations, were represented with two delegates each; New Zealand with one. The Dominions also had a place on the British Empire Delegation which had been allotted five seats. The

1. For the complete details of the organization of the Peace Conference see:

Temperley, H. W. V. (ed.), "A History of the Peace Conference of Paris", London, Oxford, 1920, Vol. I, Part III, Chapter VII, pp. 236-278.

Dominions had won their fight and had come out with two victories. They had received a "double voice" in the Plenary Conference, being represented on it with their own representatives, as well as being represented in the Empire Delegation of Five, and in the Supreme Council they had received a voice through the British Empire Delegation. This voice was greater than any of the other Small Nations.

Constitutionally, this representation was of great importance to Canada, for through it she had achieved recognition of her national status by the United Kingdom, as well as by the other States of the World. And all this was achieved without shaking the foundations of the Empire.

The Dominions took as great a part in the proceedings of the Conference as did any of the Small Nations. Dominion Ministers served on four of the five main Commissions appointed by the Plenary Conference -- the Commissions on the League of Nations, on the International Control of Ports, Waterways and Railways, on Responsibility for Offences against the Laws of War, and on Reparations.

All through the Conference the Dominions had fought for a recognition of their national status, and when the Peace Treaty was ready for signature, they were forced to go on with the fight in order to maintain the position they had won.

The question revolved around the method by which the Dominions should sign the treaty. In a memorandum dated March 12, the Dominion Prime Ministers presented a scheme which would satisfy them. In part it said:

The recital in the Preamble of the names of the Plenipotentiaries appointed by the High Contracting Parties for the purpose of concluding the treaty would include the names of the Dominion Plenipotentiaries immediately after the names of the Plenipotentiaries appointed by the United Kingdom. Under the general heading 'The British Empire', the sub-headings 'The United Kingdom', 'The Dominion of Canada', 'The Commonwealth of Australia', 'The Union of South Africa', etc., would be used as headings to distinguish the various Plenipotentiaries. It would then follow that the Dominion Plenipotentiaries would sign according to the same scheme".¹

This suggestion was accepted in principle by the British Empire Delegation and the Conference.

But when the draft of the Treaty of Versailles was ready in May, the recital of names in the Treaty did not follow the order for signature as had been suggested in the memorandum. Instead, the United Kingdom would be signing for the whole British Empire, and then the Dominion Representatives for their own representative countries.

Sir Robert Borden did not approve this method of signature, but as Kieth points out: "It is clear that it was a correct replica of the procedure which he himself had secured

1. Canada, Sessional Papers, 1919, Special Session No.41 J.

for the Conference. At it the Dominions served in a double capacity; they had separate representation, but they also served as members of the British Empire Delegation, and the complex signature of the Treaty expressed the same idea."¹

The Dominion Ministers did sign the Treaty as it was, at the same time insisting that their Parliaments be consulted before ratification was expressed for the Empire. Lord Milner of the United Kingdom felt there was no need for approval of the Treaty by the Dominion Parliaments, and that the Treaty could be deposited as ratified by the whole Empire. Sir Robert Borden was insistent on the rights of his country, and, accordingly, the Dominions were given the necessary time to secure approval by their Parliaments. After considerable debate in the Canadian House and Senate the Treaty was approved, and on September 12 an Order-in-Council was passed and cabled to London, stating that Parliament had approved the Treaty, and asking the King to ratify it "for and in respect of the Dominion of Canada".²

It is quite obvious that Canada's role in the Peace Conference was purely self assertive. Her purpose all through the sessions was to establish new relationships with foreign powers and the United Kingdom. Canada wanted autonomy

1. Keith, Arthur Berriedale, "The Sovereignty of the British Dominions", London, Macmillan, 1929, p. 318

2. Glazebrook, G.P.De T., "Canada at the Paris Peace Conference", Toronto, Oxford, 1942, p.117.

and recognition of that autonomy by the world. The events immediately following the War gave her to a great extent that recognition. She secured the right of an independent signature of the Treaty herself, and she had won from Britain the right to approve Treaties affecting herself.

Thus far, no mention of the League of Nations has been made. Chronologically, the discussion of it should have been made along with the discussion on the Peace Conference, for the League of Nations was actually a part of the Treaty of Versailles which was approved by the Canadian Parliament on September 12, 1919. For purposes of clarity, it seems reasonable to discuss the League separately from the technical issues involved in the Peace Conference, and in as much as another section in this thesis will fully develop the discussion of Canada's role in the League, my only purpose now is to mention the League's role in developing greater Canadian autonomy.

No provision was made for the separate representation of the Dominions in the first drafts of the League of Nations Covenant. The Dominions convinced the British Government that they should be granted the same privileges in representation in the League as they had been given at the Peace Conference. Lord Robert Cecil pursued their cause with the

American Delegation, and in the Hurst-Miller draft of the League Covenant, the Dominions were granted separate representation.

When the Dominions asked that they be given the right to be elected to the League Council, opposition flared up, for the British Empire had already been given a permanent seat on the Council, along with the other Great Powers. The day was won for the Dominions, though, when Sir Robert Borden secured a written declaration from Clemenceau, Wilson, and Lloyd George:

The Declaration of May 6, 1919.

The question having been raised as to the meaning of Article IV of the League of Nations Covenant, we have been requested by Sir Robert Borden to state whether we concur in his view, that upon the true construction of the first and second paragraphs of the Article, representatives of the Self-Governing Dominions of the British Empire may be selected or named as members of the Council. We have no hesitation in expressing our entire concurrence in this view. If there were any doubt it would be entirely removed by the fact that the Articles of the Covenant are not subject to a narrow or technical construction.

Dated at the Quai d'Orsay, the sixth day of May, 1919.

G. Clemenceau
(Signatures) Woodrow Wilson
D. Lloyd George

1.

One more struggle was necessary for the Dominions before they were satisfied. This involved the securing of separate

1. Miller, David Hunt, "The Drafting of the Covenant", New York, Putnam, 1928, Vol.II, p. 327.

representation in the International Labour Organization. The struggle turned to another victory; the Dominions won their point.

Separate membership in the League of Nations confirmed the fact that Canada had "come of age" in international affairs, and her election to a seat on the League Council in 1927 bolstered that claim. From that day forth, Canada could claim equality with other states, though the conditions of that claim were unique. The British Empire still existed, unshaken, and Canada continued her tie with the Empire. The subsequent events in Canadian Constitutional History show that her claim has been maintained and enhanced.

III. A Voice In the Empire

The 1921 session of the Imperial Conference is significant in two respects. It finally settled the Imperial federation issue, and it formulated an Imperial policy regarding the future role of the Empire in the Pacific. The settlement of the Imperial federation issue consisted of an understanding among the Dominions and the United Kingdom as to the role of the Dominions in the conduct of Empire foreign policy. It was to be understood, from this time on, that the control over foreign policy was to be vested in the Empire as a whole,

and Great Britain's sole control over the conduct of foreign relations was to be no greater than that of any of the Dominions.¹

Japan was the real issue involved in the decisions at the Imperial Conference. Great Britain had, in 1902, bound the Empire to a treaty with Japan, the purpose of the treaty being to preserve the status quo in the Far East, and to localize the impending Russo-Japanese War. The outcome of that war had left Japan and Britain supreme in the Orient, but the rising German menace in Europe made it imperative for Britain to secure herself in the Orient, thereby giving her the opportunity to focus undivided attention on Europe. Hence, the Anglo-Japanese Alliance was renewed for a period of ten years in 1911. The Dominions, with the exception of Australia who abstained from voting, supported the British action.

The question in 1921, then, was whether or not the alliance should be continued. The talks revolved around several points of view. Australia and New Zealand were anxious to have the treaty renewed. They maintained the good-will of Japan must be kept in order to make their geographic position in the Pacific secure. Canada, on the

1. Dewey, A. Gordon, "The Dominions and Diplomacy", London, Longmans, 1929, Vol. II, pp.62 - 63.

other hand, insisted the Alliance be discontinued. One particular clause in the Alliance caused her great uneasiness. That clause made the provision that either party (The British Empire or Japan) would go to the aid of the other in case of unprovoked aggression by a third power. Canada feared the Empire might become involved with the United States through trouble arising between that country and Japan. Agreement was finally reached in the Conference when it was decided that friendly co-operation with the United States was to be the first principle of policy, while at the same time maintaining close friendship and co-operation with Japan.¹

President Harding's invitation to the Washington Disarmament Conference came while the Imperial Conference was still in session. For some reason, known only to President Harding, the invitation did not include the Dominions. They, however, had no intention of retreating from the recognition they had won at Versailles, and immediately took strong objection to the omission, finally securing representation as members of the British Empire Delegation. The arrangements were an exact reproduction of the practice followed at Paris, thereby gaining recognition of their status without formal invitation.

1. Journal of the Parliaments of the Empire, Vol.II p. 704.

Disarmament was the chief topic of discussion, and, along with that, the question of maintaining the status quo in the Pacific came up. To the complete satisfaction of Canada, the bi-lateral alliance between Britain and Japan was replaced with the Four Power Treaty.¹

For the Genoa Conference called in March 1922 to consider the restoration of international commerce in Europe, the Italian Government sent separate invitations directly to the several Dominions, and received separate replies from them.²

Kemal Pasha and the Turkish Nationalist Army were responsible for the final settlement of the question for Canada as to who was the proper authority to declare war. In September 1922, in order to prevent the Turkish National Army from occupying Constantinople, the British concentrated a small force at Chanak. To ascertain whether or not the Dominions desired to aid the British by sending a contingent, in the hope that open warfare could be prevented by a show of force, Mr. Lloyd George cabled the Dominions:

The announcement that any or all of the Dominions were prepared to send contingents would exercise a favorable influence on the situation and might be a potent factor in preventing hostilities.³

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1. Corbett, Percy Ellwood and Smith, Herbert Arthur, "Canada and World Politics", Toronto, Macmillan, 1928, p. 88.
 2. "Text of the Resolution of the Supreme Council Calling the Genoa Conference", International Conciliation - American Assoc. for International Conciliation, N.Y. (Reprinted from the N.Y. Times, Jan. 7, 1922) Feb./22. pp. 27-9
 3. Canada, House of Commons Debates, 1923, Vol. I, P. 30.

Prime Minister Mackenzie King answered as to the view of the Canadian Government, that only the Canadian Parliament could authorize a contingent.¹ One would be safe in assuming that the Government of Canada could have authorized a contingent, but that the Prime Minister did not wish to be placed in the position of being answerable to Parliament for an act which might possibly turn his government out of office. The government did, in 1941, declare war on Japan without first consulting the Parliament.

However, it was the Chanak affair which established the Canadian position that Canada must be consulted before any act was committed by the British which might lead to war. This position was later confirmed at the Imperial Conference meeting of 1926 which will come under discussion later.

The results of the Imperial Conference of 1923 -- the second since the end of the war -- have been said by many to be the least successful of the entire series of Conferences. The Round Table did not hold this view, but said:

...it marked the close of a definite period of Imperial development. The system of Imperial co-operation, long regarded as the 'summum bonum' of Imperial attainment, was at last put into full and untrammelled effect. It perfected the machinery of the British Commonwealth according to the ideals of the co-operationist school of Imperial thought.²

1. Ibid., p. 30

2. The Round Table, December 1923 to September 1924, Vol. XIV, "Afterthoughts on the Imperial Conference", annom., p. 226

The resolution put forth at the Conference may be summarized, here, for our purpose in order to point out its effect on the thinking in Canada on an event which took place shortly after the conclusion of the Conference. It was resolved by the Governments in the Empire that a specific procedure would be followed in the negotiation, signature, and ratification of international agreements. No treaty was to be negotiated by any of the Governments of the Empire without consideration of its effect on the other parts of the Empire. Before negotiations were begun, other Governments in the Empire were to be notified, so that, if they were interested or affected in or by the treaty, they might participate in the negotiations. When more than one Government in the Empire participates in the negotiations, there was to be a full exchange of information. And, when the whole Empire took part in future negotiations, representation of all the Dominions was to be on the same basis as was used at the Paris Conference. If a treaty being negotiated was a strictly bi-lateral one, imposing obligations on only one part of the Empire, it was to be signed by a representative of that government only.¹

Here then was a statement giving formal recognition to the various precedents which had been established before 1923.

1. Ibid., p. 227.

Although the Pacific Halibut Treaty has been mentioned in another section, it deserves remention at this point. It will be remembered that, during the negotiation of the said treaty, there was a question as to Canada's right to sign the treaty on her own behalf, with the United States. The British Ambassador had been instructed to sign the instrument jointly with the Canadian representative, Mr. Lapointe. Canada's Governor-General, in a wire to the Secretary of State for the Colonies, suggested that inasmuch as the treaty concerned only Canada, the signature of Mr. Lapointe would be sufficient. On March 2, 1923, the treaty was signed by only the Canadian Representative. The national status of Canada had again been emphasized. Canada had asserted her right to sign treaties without the aid of Great Britain.¹

When the Dominions were not invited to the Laussane Conference in 1923, the Canadian Government refused to recommend to Parliament the approval of the treaty with Turkey drawn up at that Conference. The view of the Canadian Government was stated by the Governor-General to the Secretary of State for the Colonies:

(The) Canadian Government not having been invited to send representative to the Lausanne Conference and not having participated in the proceedings of

1. Dewey, A. Gordon, "The Dominions and Diplomacy", London, Longmans, 1929, Vol. II, pp.137-147.

the Conference either directly or indirectly and not being for that reason a signatory to the Treaty on behalf of Canada ... my Ministers do not feel that they are in a position to recommend to Parliament approval of the Peace Treaty with Turkey and the Convention thereto. Without the approval of Parliament they feel that they are not warranted in signifying concurrence in the ratification of the Treaty and Convention. With respect to ratification, however, they will not take exception to such course as His Majesty's Government may deem it advisable to recommend.¹

Mr. Mackenzie King admitted that Canada would be bound, technically, by this treaty. As he explained to the House of Commons on June 9, 1924:

Legally and technically Canada will be bound by the ratification of this Treaty; in other words, speaking internationally, the whole British Empire in relation to the rest of the world will stand as one when this Treaty is ratified. But as respects the obligations arising out of the Treaty itself, speaking now of inter-Imperial obligations, this Parliament, if regard is to be had to the representations which from the outset we have made to the British Government, will in no way be bound by any obligation beyond that which Parliament of its own volition recognizes as arising out of the situation.²

Canada hereby made the distinction between automatically incurred commitments which are "passively" binding on her, and commitments which were deliberately assumed and therefore "actively" binding. Unless she was a negotiator and signator of a treaty, she maintained she could not be actively bound by it. Canada was holding fast to the resolution of the Imperial Conference of 1923.

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2. Canada, House of Commons Debates, 1924, p.2936.

A treaty of a similar nature was the Locarno Pact signed in 1925 by Great Britain, France, Germany, Belgium, and Italy. Great Britain, by this treaty, guaranteed the existing frontiers between France and Germany and Belgium and Germany, and agreed to assist in repelling aggression on one side or the other. The treaty was signed by Great Britain alone, the Dominions being specifically exempted from any obligations arising out of it. There was no Dominion participation in the negotiation of the treaty, it being recognized that the United Kingdom was to conduct her own foreign policy, leaving the Dominions free to conduct their own.¹

Ireland was the first of the countries in the Empire to make use of accredited diplomatic representatives to foreign powers. Canada had maintained in Washington a Canadian War mission during the war, and when the commission was discontinued in 1920, its Secretary remained in Washington as an agent of the Department of External Affairs. In 1927 there was an official exchange of Diplomatic Ministers between Washington and Ottawa. The Canadian Minister was empowered to act for the British Ambassador in the latter's absence. This device was soon abandoned, and the Canadian Minister acted only as the representative of Canada. Following

1. Corbett, Percy Ellwood, and Smith, Herbert Arthur,
"Canada in World Politics", p. 67.

that exchange, Canada, in 1928, arranged for reciprocal diplomatic representation with France and Japan.

The British Government gave its full consent to the appointment of a Canadian Minister to Washington. It was declared, officially, in the British House of Commons that the maintenance of a Canadian Minister at Washington "would not constitute a departure from diplomatic unity."¹

It was on January 12, 1944 that the Canadian Minister at Washington was raised in rank to an Ambassador. The United States, in turn, raised the rank of its Minister in Ottawa, to that of an Ambassador.

On November 1, 1945, the Diplomatic List included official diplomatic representatives to Canada from the United States of America, China, Brazil, The Union of Soviet Socialist Republics, France, Peru, Belgium, Chile, Argentina, Greece, Norway, Czechoslovakia, Sweden, Turkey, the Netherlands, Cuba, and Switzerland.² Canada did have, prior to 1939, diplomatic representatives in several countries not listed above. The outbreak of war, however, necessitated the severance of diplomatic relations with belligerent countries, and, as yet these relations have not been renewed. There can be no doubt as to Canada's right to a place in the family of nations.

1. Ibid., p. 140.

2. Canada, Department of External Affairs, "Diplomatic List November 1, 1945".

Each year new events occurred recognizing Canada's position as a state, a state in her own right, yet still within the British Commonwealth of Nations. It was for the Imperial Conference of 1926 to give formal recognition to this new international evolution. Prime Minister Mackenzie King, before leaving for England in 1926 said in the House of Commons:

Mr. Lapointe and I feel that our one aim and purpose should be to represent Canada as a full, self-governing nation -- one of that Commonwealth we speak of as the British Empire, all united under one King, one flag, and one ideal.¹

And this aim was accomplished. The report of the Inter-Imperial Relations Committee of the Imperial Conference of 1926 states that the Dominions are recognized as autonomous nations of an Imperial Commonwealth. They are "autonomous communities within the British Empire, equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of nations. There can be no doubt about the status of the Dominions. There is no inequality among them, nor are they subordinate to Britain. Every self-governing member of the Empire is now the master of its

1. Canada, House of Commons Debates, 1926, p. 32.

destiny. In fact, if not always in form, it is subject to no compulsion whatever".¹ Corbett and Smith in Canada and World Politics tend to emphasize the words "in fact, if not always in form", maintaining that this was a limitation on the status of the Dominions.² Granted it is, but its effect is of no consequence, the "if not always in form" merely recognizing the continued use of forms by the Dominions which have been established as customs. There is nothing to indicate the necessity of discarding these forms, nor is there anything to prevent their discontinuance should the Dominions so decide.

Lord Durham, in his report on Responsible Government for Canada in 1839 had made a distinction between domestic and external affairs. This distinction, through the years disappeared, but at the Imperial Conference of 1926 it was again brought to light in the report under Part IV -- Subjects affecting the whole Empire; and Part V -- Subjects beyond the Empire. In these sections of the report responsible government was brought to its logical conclusion -- the recognition of the Dominions as individual and independent states.

1. Imperial Conference, 1926 - Summary of Proceedings, (Kings Printer, Ottawa, 1926) p. 12.

2. Corbett, Percy Ellwood and Smith, Herbert Arthur, "Canada and World Politics", pp.145-146.

The Governor-General has always been a representative of the Crown in his capacity of head of the executive government in Canada. In 1867 he was appointed by the Queen on the advice of her Ministers in London. As has been pointed out previously, this practice was soon discontinued and the Canadian Prime Minister advised in the appointment of the Governor-General. The report in 1926 made it clear that he was to occupy, from then on, the same position in relation to the Government of Canada as does the King in relation to the Government of Great Britain. He was not, in any sense, to be a representative of the Government of Great Britain or any department of that Government.

Also, the report of 1926 stipulated that the Governor-General was no longer to be the official channel of communication between the Dominion Government and that of Great Britain. Although in 1918 the practice of direct communication from Prime Minister had been established for purposes of expediency by the War Cabinet, the practice had not ruled out, absolutely, the use of the Governor-General as a medium of communication between the Governments. The report made it clear that, henceforth, the official channel of communication was to be between Government and Government, direct.

This change abolished a useless detour and made possible closer contact between the Dominion and the British Governments.

Canadian statesmen formulated the British North America Act of 1867, but it was the British Parliament which passed it. Later amendments to the Act were also passed by the British Parliament, although in all instances, these amendments were formulated by the Canadian Parliament. The report of the Conference of 1926 did not change this procedure. However, it did state that legislation by the British Parliament would be passed only with the consent of Canada. It was only the will of Canada that was responsible for this curtailment on responsible government. It is, in fact, no curtailment at all, for the report of 1926 states the restriction will disappear whenever a change is requested by the Canadian Government. The condition exists merely because of a disagreement between the Provinces and the Dominion as to the most desirable method of amending the Constitution. Until an agreement between the Provinces and the Dominion, the British Parliament acts simply as an agent of Canada.

Section V of this report, as was pointed out above, dealt with the general conduct of foreign policy. It was

nothing more than an amplification of the Resolution made at the Imperial Conference of 1923 regarding treaty making. The Dominions were given the right to initiate and conclude treaties within their own sphere of interest, and none of the Dominions were to be bound by obligations assumed by other parts of the Empire unless they wished. The policy of consultation between the various parts of the Empire when treaty negotiations were instituted was also re-affirmed under Part V of the Report.

IV. Final Steps to the Goal

Existing administrative, legislative, and judicial forms were not completely in accord with the Report of the Conference of 1926. Therefore, a committee was established by that Conference, representing Great Britain and the Dominions, to examine and report upon questions restricting Dominion legislation.¹ The Committee presented its findings at the Imperial Conference meeting in October, 1930. That Committee advised the Imperial Parliament to pass certain legislation removing restrictions in conflict with the proposals made in the Report of 1926. A statute was proposed and formulated, and after due consideration by the

1. The report is commonly referred to as the Balfour Declaration, Lord Balfour being Chairman of the Committee formulating the report.

Dominion Parliaments, Resolutions were made requesting legislation by the Imperial Parliament along the lines laid down. The Statute was introduced into the House of Commons by the Secretary of State for Dominion Affairs on November 12, 1931, as the Statute of Westminster Bill. Royal Assent was given the Bill on December 11, 1931.¹

The importance of the Statute of Westminster cannot be over emphasized, for it did, in fact, translate into law a well understood body of constitutional practices which had grown up through the years. It was a confirmation of these practices. "It governs the one common bond of unity in the Commonwealth, and it is a matter of equal concern to all".² There is little point in discussing each section of the Statute, for that would entail a virtual duplication of the material discussed above on the Report of the Imperial Conference of 1926.³ However, one point should be made clear in its application to Canada. One section of the Statute, peculiar to Canada only, reserves to the British Parliament the right to amend the Canadian Constitution. This is purely a formal function, included

1. Wheare, K. C., "The Statute of Westminster, 1931", Oxford, Clarendon, 1933, pp. 5-6.

2. Ibid., p. 122

3. The complete text of the Statute of Westminster, 1931, is included in the Appendix of this thesis for ready reference.

at the request of Canada, because of internal Federal questions already mentioned above. This Canadian section of the Statute can be removed whenever the Canadians so desire, and cannot be considered as more than a technical reservation. It is not significant in so long as Canada acts and is recognized by the rest of the world as acting as a completely independent and self-governing state. Her membership in the British Empire or in the British Commonwealth of Nations is no different from the membership of Argentina or Brazil or the United States in the Pan American Union. The association in both cases is entirely voluntary and the degree of co-operation depends on the will of the people.

Logically, the discussion of Canada's status in the family of nations could end at this point. She had won her place as an independent and recognized state. However, events from 1931 to the present emphasize Canada's new role both within the British Commonwealth of nations and in the field of world affairs, and, therefore, some mention must be made of them.

Between 1931 and 1945, in her role as member of the British Commonwealth of nations, three events stood out as being significant in Canadian Constitutional History -- the

abdication from the throne of His former Majesty, King Edward VIII in 1937; the visit to Canada of their Majesties, King George VI and Queen Elizabeth, in 1939; and the Declaration of War by Canada in 1939. The last event also had significance in the broader field of foreign affairs.

Canada possesses a monarchical form of government but is not a separate kingdom. Her King is designated as "King of Great Britain, Ireland, and the British Dominions Beyond the Seas, Defender of the Faith, Emperor of India". The situation is, granted, curious, but has no bearing on the international status of Canada as a state. Like situations have existed before in the case of Scotland between 1603 and 1707, and in the case of Hanover between 1714 and 1837. The King acts separately and distinctly for Canada in matters relating to the Dominion, and does not act at once for all parts of the Commonwealth.

Understanding this condition, we can proceed to the discussion of the Abdication from the throne of His former Majesty, King Edward VIII in 1936. The details of his affair with Mrs. Simpson need not detain us, for that is in the biographers' field. The fact that he did abdicate the throne for the "woman he loved" did, however, have a constitutional bearing on Canada.

The Preamble of the Statute of Westminster, 1931, stated in part:

Any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall thereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom.¹

Canada gave her consent to the British Abdication Act of December 10, 1936, by an Order-In-Council. And, to emphasize the Canadian aspect of the monarchy, Canada passed, retroactively, a special act to validate the abdication of Edward. The Canadian Act provided the necessary sanction implied by the Statute of Westminster, 1931.

Even though war was imminent in 1939, King George VI and Queen Elizabeth made a trip to North America. It is entirely possible that that journey was made in order to further the understanding between Canada and Great Britain, but be that as it may, the visit to Canada of Their Majesties did cause considerable interest the world over. In Canada, the formal duties of the King have always been performed by a representative of the King -- the Governor-General. The physical absence of the monarch had necessitated this interposition of a representative of the King to perform

1. 22 George 5, C. 4, The Statute of Westminster, 1931.

the formal duties. The Royal visit, however, gave the opportunity, the first time in the history of the country, for the King himself to perform these duties. For that occasion the Canadian Parliament assembled in the presence of His Majesty in the Senate Chamber at Ottawa. The speech from the throne was read by the King, and he gave the royal assent to several bills specially passed in time for this event.

During the progress of their Majesties across the country they were accompanied solely by Canadian advisors, none of his British Ministers being in the retinue. For legal purposes, the Canadian Seals Act of 1939 was passed, designating the Great Seal of Canada as a royal seal, and authorizing the King to use it. It also authorized the King to use, whenever outside the country, any seal he might designate. This action eliminated, in the future, the necessity for relying upon British seals and forms. Canada again had emphasized her independence from Great Britain.

Many writers seem to feel that when Britain is at war, Canada also is at war. Facts do tend to bear out this¹ assumption.

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1. See: (i) Scott, F.R., "The End of Dominion Status", The American Journal of International Law, January, 1944, pp.34-49.
 - (ii) Stokes, Wm., "Canada's War Dilemma", Forum, November, 1939, pp.222-225.

However, the theme of this thesis, to this point, has been to prove the right of Canada to assume she is a state in her own right, and thus is capable of acting in the field of international relations independently of Britain. This, I contend has been, and can be proved.

War was declared on Germany by Great Britain on September 3, 1939. The Canadian Parliament did not declare war, officially, until one week later -- on September 10. The actions of Canada during that one week of "neutrality" clearly implied an automatic belligerency, for German nationals were arrested and trade with the enemy was prohibited. But the attitude of Germany, a belligerent nation, and of the United States, a neutral nation, makes it apparent that Canada was not considered as being a belligerent by the outside world.

Herr Windels, the German Consulate-General in Ottawa made no attempt to leave Canada after the British declaration of war. From his speeches and actions, which included protests to the local press when German nationals were arrested, it seems apparent that he considered Canada a neutral after September 10. The fact that he made no

attempt whatsoever to leave the country until after that date bears out this contention.¹

As for the attitude of the United States, it can easily be shown by the text of the U. S. Neutrality Act, proclaimed on September 5, 1939, that Canada was considered as being a neutral. The first draft of the Act assumed the indivisible status of the Commonwealth during the war, for it referred generally, to: "The United Kingdom, the British Dominions beyond the Seas, and India". The proclamation was changed, however, by President Roosevelt to read: "The United Kingdom, India, Australia, and New Zealand". Ireland, South Africa, and Canada were omitted, pending their separate decisions on their course in the war. Thus, recognition was given to the Dominions of their right to exercise independent action in foreign policy.²

Canada, to impress upon the world her right to independent action in foreign policy, can claim the honor of being the first country to declare war on Japan after the Pearl Harbor attack on December 7, 1941. Her declaration was made

1. Soward, F. H., and others, "Canada in World Affairs, the Pre-War Years", Toronto, Oxford, 1941, p. 256.

2. Scott, F. R., "The End of Dominion Status", The American Journal of International Law, January, 1944, p.44.

on December 7 -- one day before either the United States or Great Britain made their declaration.

An interesting sidelight on the Canadian action on Pearl Harbor Day is the fact that the declaration of war on Japan was made by the Government without first consulting Parliament. This was a direct reversal of policy for Canada, for during the Chanak incident in 1922, Prime Minister Mackenzie King had insisted that only Parliament could authorize action of this sort.

During the war, Canada made for herself an enviable place in the company of the United Nations. She became the third among the United Nations in naval power, and fourth in air power. She became a member of the Anglo-American Combined Food Board, and the Combined Production and Raw Materials Board. It was Canada which provided the raw material and many of the facilities used to develop the atomic bomb. Canada's role in the war was not that of a Small Power. She rose to a new stature.

And, with the conclusion of hostilities, Canada took her full share of responsibility in the world. She became a full partner of the other nations participating in the administration of the United Nations Relief and Rehabilitation Association. She is its largest contributor of supplies and its third largest contributor of money.

Montreal became the seat of the newly organized International Civil Aviation Organization.

Peace became the keynote of the new world. And Canada has taken her share in the accomplishment of that peace. At the United Nations Conference on International Organization in San Francisco, Canada made major contributions. She furthered the case for the Small Powers, and won for herself the recognition of a "Middle Power" concept. Canada is now conscious of her responsibility in maintaining the peace of the world, and is fully prepared to face these responsibilities.

A speech given by Lord Halifax in Toronto on January 24, 1944 poses some interesting problems as to how Canada can best enact her role in the new world. Canada, by the Statute of Westminster, was given complete self-government; she was given the power to determine her own course in the realm of external affairs. The Commonwealth still stands as a unit, yet the responsibility for action which represents that unit is not visibly shared by all in the Commonwealth.

On September 3, 1939, the Dominions were faced with a dilemma of which the whole world was aware. Either they must confirm a policy which they had only partial share in framing, or they must stand aside and see

the unity of the Commonwealth broken, perhaps fatally and forever. It did not take them long to choose, and with one exception (Eire) they chose war.¹

The problem then is this: Should Canada, as Lord Halifax argues in his speech, draw closer into the Commonwealth in order to fortify the partnership, or should Canada go her own way in making decisions on foreign policy? Canada worked long to achieve her independent status. Should she now forego that independence for united Commonwealth action in the world?

If, in the future, Britain is to play her part without assuming burdens greater than she can support, she must have with her in peace the same strength that has sustained her in this war. Not Great Britain only, but the British Commonwealth and Empire must be the fourth power in that group upon which, under Providence, the peace of the world will henceforth depend.²

The argument is strong. Canada, with the other British Dominions, can set an example for united action in government. The British Empire voice can be strong if the Commonwealth is a close unit. But will Russia or the United States or some other country resent united action by the British Commonwealth? The United States was fearful of the Commonwealth when the League of Nations was organized in 1919. Will she or some other nation resent united action by the Commonwealth in the U.N.O. Canada is faced with a dilemma.

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1. Speech by Lord Halifax before the Toronto Board of Trade, Jan.24, 1944. Reprinted in "International Conciliation" March, 1944, p.227.
 2. Ibid., pp.229-230.

Mr. Mackenzie King, in stating the attitude of the Canadian Government on Lord Halifax's speech before the House of Commons agreed with Lord Halifax on the point that the peace of the world depended on maintaining on the side of peace a large superiority of power. However, was the best way of achieving peace to seek a balance of strength between three or four great powers?

Should we not, indeed must we not, aim at attaining the necessary superiority of power by creating an effective international system inside which the co-operation of all peace-loving countries is freely sought and given. 1.

Canada cannot support the idea that peace should be maintained by matching strength between three or four dominant states. Canada will still continue to collaborate closely with the Commonwealth, as she has in the past. However, in matters involving issues of peace and war, or prosperity and depressions, Canada will join "not only with the Commonwealth countries, but with all likeminded states, if our purposes and ideals are to prevail".²

This all goes to point out the important place Canada holds in the world. She is important to the Commonwealth, and her decisions will be important to the world. Canada has come of age.

1. House of Commons Debates, 1944, Vol. I, p.41.

2. Ibid., p. 42.

P A R T T W O

CANADA'S ROLE
IN THE
LEAGUE OF NATIONS

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PART TWO

CANADA'S ROLE IN THE FAMILY OF NATIONS

Part I of this thesis gave a glimpse of Canada's role at the Versailles Peace Conference. We have seen how, through persistent and continued effort, she convinced the Supreme War Council that it was only just to recognize the Dominions individually at the Peace Conference. There is no need to relate again the method used in granting the Dominions a voice in the Conference. For our purposes, it is possible to step directly into the proceedings of the Conference and show how it handled the plan for a League of Nations.

I. Canada's Part in Building the League.

It was decided at the first plenary session of the Conference to appoint a committee to draft the Constitution of the League of Nations. General Smuts of South Africa was chosen to serve as one of the representatives on the British Delegation. This was only natural in view of his famous pamphlet, The League of Nations, a Practical Suggestion. The Committee, when it began its task, had before it

a draft Covenant which embodied an amalgam of British and American ideas. The draft, it is interesting to note, omitted the Dominions from the list of possible members. The subsequent efforts of the Dominions to secure separate representation at the Conference convinced the British Government that the Dominions should have the same representation in the League. Lord Robert Cecil discussed the matter with President Wilson, and, although the President was not in favor of separate Dominion representation, agreed to it. The Hurst-Miller draft of the League Covenant, which was used finally as a basis for the Committee's work, made provisions for the separate representation of the Dominions and India in the League.

Mention had been made in some of the earlier plans for a league for an Executive Council. Lord Cecil concurred with the idea and proposed a Council consisting of the five great powers. His plan made no mention of temporary or rotating seats for smaller powers. The Dominions at first favored his proposals, for they were sure of representation on the Empire Seat.

The small powers generally, however, were against accepting the plan, and at the second meeting they launched an attack against it. Out of this attack developed the plan which was finally adopted -- a Council with permanent seats

for the Great Powers, and non-permanent seats for the lesser powers. The way was now opened for the Dominions to secure direct representation on the Council. First, however, they had to establish their equality with the sovereign states.

Article 4 in the draft presented the technical barrier -- sovereignty -- to Dominion membership in the Council.

It read in part:

The Council shall consist of Representatives of the United States of America, of the British Empire, of France, of Italy, and of Japan, together with the Representatives of four other States which are members of the League.¹

The Dominions, not properly states, could, therefore, be excluded from membership on the Council. David Hunter Miller commented:

As to the Powers represented from time to time on the Council, I am inclined to take the view ... that it was the intention of the Commission to exclude the Dominions and Colonies from such representation.²

Sir Robert Borden of Canada saw in the situation a serious difficulty. For some purposes the Empire wished to be regarded as a unit, and for others individual representation was claimed. Lord Robert Cecil insisted, though, that the Dominions should be treated no differently ^{from} than the other

1. Miller, David Hunter, "The Drafting of the Covenant", New York, Putnam, 1928, Vol. I p.479. (Italics mine)

2. Ibid., p. 480.

nations. After numerous consultations with President Wilson and the American Delegation the draft was re-worded in a manner acceptable to both the Commission and the Dominions. Sir Robert Borden, however, was not completely satisfied. He wanted a written assurance from the Great Powers that the Dominions, under the Covenant, would have the right to be elected to the Council. This assurance was given in a note signed by Clemenceau, Wilson, and Lloyd George on May 6, 1919. That note has already been quoted in full in Part I, but it is necessary to quote the significant parts of it again. It read, in part: "...representatives of the self-governing Dominions of the British Empire may be selected or named as members of the Council. We have no hesitation in expressing our entire concurrence in this view"¹.

Now confident that Canada was, in status, equal to any other nation, Sir Robert Borden joined in the final phases of the Conference and gave active advice and criticism on the draft Covenant. He prepared a memorandum on March 10 suggesting to the Conference numerous changes in the draft. Referring to Article VIII, that Article dealing with the reduction of armaments and the undesirability of their manufacture by private enterprise, he complained of its being

1. Ibid., p. 489.

ambiguous and ineffective. It was Article X, though, which took the brunt of his criticism. The Article as it stood read:

The High Contracting Parties undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all states members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Executive Council shall advise upon the means by which this obligation shall be fulfilled.¹

Sir Robert Borden's memorandum made the following observation regarding Article X:

It is submitted that this Article should be struck out or materially amended. It involves an undertaking by the High Contracting Parties to preserve the territorial integrity and existing political independence of all states members of the League. The Signatories to the Covenant are called upon to declare (a) that all existing territorial delimitations are just and expedient, (b) that they will continue indefinitely to be just and expedient, (c) that the Signatories will be responsible therefor. The undertaking seems to involve initially a careful study, consideration and determination of all territorial questions between the various states who become parties to the Covenant. Even if such a survey were practicable it is impossible to forecast the future. There may be national aspirations to which the provisions of the peace treaty will not do justice and which cannot be permanently repressed. Subsequent Articles contemplate the possibility of war between two or more of the signatories under such conditions that the other Signatories are not called upon to participate actively therein. If, as a result of such war, the nation attacked occupies and proposes to annex (possibly with the consent of a majority of the population) a portion of the territory of the aggressor, what is the operation of this Article? Indeed the Article seems inconsistent with the provisions of Articles XII to XVII inclusive. Obviously a dispute as to territory is within the meaning and competence

1. Ibid., Vol.II, p. 330.

of the six Articles last referred to, under which a disposition of the dispute materially different from that proposed by Article X might be reached. Article XXIV does not seem to remove the difficulty.¹

Articles XII and XVII referred to in the memorandum deal with the handling of disputes. Borden felt that they were, on the whole, defective.

The memorandum was cabled to Ottawa, and the Canadian Government's attitude seemed to accept Borden's stand on the Covenant. The issue raised by Borden, however, was not easily settled. Canada was obviously reluctant to be brought into a European war. The French, on the other hand, whose motive it was to gain a guaranteed security, felt the whole purpose of the League would be sacrificed if Article X were changed to meet the Canadian point-of-view. The Americans were supporting the French. Although abolition of or amendments to the Article were discussed, nothing was actually done to change it, and Article X found its way unimpaired into the final Covenant.

Japan dropped a bomb-shell into the Conference when she proposed a section of the Covenant contain a clause on the status of emigrants in other countries. Japanese people had, in the most part, been excluded from other countries and

1. Ibid., Vol. I, p. 358.

Japan hoped to establish a more favorable position for her people in these countries. To most of the Western States this proposal was not conceivably possible. To the Canadian Delegation no such clause in the Covenant could be acceptable. The British North America Act gave the Dominion Government legislative authority over naturalization and aliens, and no Canadian Government was free to sign a treaty depriving the Dominion of this authority.¹ After considerable debate at the Conference, the Japanese Delegation consented to let the matter rest.

Labor too had its stake in the Peace Conference. Two approaches to the subject of labor were discussed at the Conference: a charter for labor embodied in the treaties, or a separate organization empowered to deal with questions of common interest to its members. As it was, the organization was established as a separate body known as the International Labor Organization.

The question of membership in the Organization arose early in the discussions. The American Delegation felt that giving the Dominions separate representation would in fact give six votes to the British Empire. American public

1. 30 Victoria, C. 3 (The British North America Act, 1867)

opinion, it was felt, would never allow that. The Canadians made several appeals to Wilson, and finally, on May 6, President Wilson decided to override the advice of his labor experts, and agreed to separate Dominion representation in the Labor Organization. The original section on membership read: "No member, together with its Dominions and Colonies, whether self-governing or not, shall be entitled to nominate more than one member"¹. This was changed by making the Convention the same as the Covenant of the League in respect of membership eligibility.

Federalism posed a peculiar question in respect to the Labor Charter. Mr. Gomphers and Mr. Robinson of the American Delegation wanted an amendment in the Charter releasing a state from the Labor Convention if its constitution was inconsistent with it. The Canadian Delegation believed no such amendment was necessary in the case of Canada. Although she is a federal state, and although matters dealing with labor ordinarily belonged to the legislatures of the Provinces, Article 132 of the British North America Act seemed wide enough to confer any legislative power necessary for performing her obligations upon the Parliament of Canada.²

1. Borden, Henry, ed., "Sir Robert Laird Borden: His Memoirs", Toronto, Macmillan, 1928, Vol.II, p.150.

2. 30 Victoria, C.3 (The British North America Act, 1867) Article 132 reads: "The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any

Subsequent events in Canada proved this belief wholly incorrect. Although we are not here concerned with the Dominion-Provincial aspects of Treaty Making Power it is pertinent to point out that a recent Privy Council decision held that Section 132 of the British North America Act did not grant the power to over-ride provincial rights except in cases of Empire Treaties. Lord Atkins, who wrote the decision, said Section 132 of the Act could not be strained to cover the un contemplated event of the Dominion of Canada's new international status. The Dominion, in its new role, having executive authority in the international field, could not over-ride the powers granted and guaranteed the Provinces in Section 92 of the Act.¹

footnote continued from previous page:

Province thereof, as part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries."

1. Great Britain, Privy Council. Judicial Committee,

"Canadian constitutional Decisions of the Judicial Committee of the Privy Council, 1930 to 1939".

Plaxton, Charles Percy (ed.), Ottawa, Kings Printer, 1939, p.278

(For complete study of the question see "Treaty Making Power in Canada", published by the League of Nations Society in Canada)

But now to return again to the Conference at Paris. The Canadian Delegation made several suggestions for modification of the Labour Charter. Clause 8, as it was originally drafted said:

"In all matters concerning their status as workers and social insurance foreign workmen lawfully admitted to any country and their families should be ensured the same treatment as the nationals of that Country." ¹

Provincial legislation in Canada barred Orientals from certain trades, and Sir Robert Borden in particular was afraid of trouble from the Provinces if the Clause remained as ^{it} was. His solution was to find an alternative text which would overcome the difficulty so far as Canada was concerned, and yet meet with the general approval of the Conference. This he succeeded in doing, and the text of the clause was changed to read:

"The standard set by the law in each Country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein." ²

Actually, this committed a government to nothing.

When the Conference had completed its work, the Canadian Delegation was given a chance to sit back for a moment and view its contribution. On the whole they were satisfied.

1. Glazebrook, G. P. De. T., "Canada at the Paris Peace Conference", Toronto, Oxford, 1942, p. 80

2. Ibid, p. 81.

Canada had succeeded in becoming an original member of the League as well as of the International Labour Organization. In neither was she considered a Colony. For all practical purposes she had been accepted as a State. The only indication of her "inferior" status was shown in the signature of the Treaty. The United Kingdom Representatives signed for the whole British Empire, and then the Dominion representatives for their respective Countries. This procedure was also followed in signing the League Covenant and the Labour Charter. Although the Canadian Delegation had balked at this method of signature, it did in fact exactly duplicate the manner of their representation at the Conference; in their own right as small powers, and through the British Empire Delegation as a part of a great power.

2. The Attitude of the Parliament of Canada.

Under British practice the ratification as well as the negotiation of treaties was a function of the executive. A treaty in the United Kingdom, therefore, need not be submitted to Parliament for ratification. Lord Milner, the Colonial Secretary, cabled the Dominions on July 4th, one week after the signature of the Treaty of Versailles - "It is hoped German treaty may be ratified by three of the Principal Allied and Associated Powers and by Germany before end of July." ¹

1. Canada, Sessional Papers, 1919, Special Session No. 41J

The cable apparently implied that ratification was to be completed without the formal approval of the Dominion Parliaments. This, of course, was wholly unacceptable to the Canadian Government. In his answer to the cable, Sir Robert Borden informed Lord Milner that he, Borden, was under pledge to submit the treaty to Parliament "before ratification on behalf of Canada.... Kindly advise how you expect to accomplish ratification on behalf of the whole Empire before end July." ¹ Although there is nothing to indicate that the United Kingdom did not have the right to ratify the Treaty for the whole Empire, the British Government agreed to post-pone ratification as long as possible, thus giving the Canadian Parliament time to consider the Treaty.

Parliament was called to a special session on September 1st, 1919 to consider the terms of the Treaty of Versailles. The resolution asking for approval of the Treaty by the House of Commons was moved by Sir Robert Borden, and for two days the debates continued. The debates, on the whole, centered on two topics: Article X of the League Covenant, and the relationship existing between Canada and the Empire. Here we are chiefly concerned with the first of the two topics, but some mention must also be made of the second.

1. Ibid.

The acting leader of the Liberal opposition, Mr. D. D. Mackenzie, said the most important point in considering the treaty was to see if the status of Canada had in any way been affected by the terms of the Treaty. He was especially fearful of Article X of the League Covenant, for it virtually implied that the terms of the Treaty would be interpreted by a Council sitting at Geneva. Canada might easily be forced into actions against her own free will if the Treaty were approved.

According to Article 8, Canada would have to maintain a standing army to be used, as Mr. Mackenzie put it, in the event of a petty quarrel between small nations. Who could tell that Canada might not be put in a position whereby she might have to use arms against her Mother Country? ¹

Mr. Beland used a similar argument in opposing Canadian approval of the Treaty. He claimed that if Canada joined the League, Canadian troops might be called upon, by a Council of nine men sitting in Geneva, to quell disorder in any of the five continents. Canada's hands would be tied by the Council.² Fear of breaking up the British Empire should Canada be forced to decide against Great Britain in a League dispute was used as an argument against approving the Treaty by Mr. Lapointe. He favored a reservation in the Treaty

1. Journal of the Parliaments of the Empire, 1920, Vol.I
p. 94

2. Ibid p.95

clearly stating that the rights and privileges of the Canadian Parliament would in no way be impaired by approval of the Treaty by Canada.¹ Mr. A. Lemieux contended that Article X involved surrendering Canadian control over her military forces and the defences of the Dominion. Mr. Fielding insisted there be a reservation in order that the ratification of the Treaty would not surrender the Canadian Parliament's right to determine the part Canada would take in a war.² However, he accepted the Prime Minister's word that the autonomy of Canada would be preserved in any question concerning status, but proposed the following amendment to protect that autonomy.

"That in giving such approval this House in no way assents to any impairment of the existing autonomous authority of the Dominion, but declares that the question of what part, if any, the forces of Canada shall take in any war, actual or threatened, is one to be determined at all time, as occasion may require by the people of Canada through their representatives in Parliament."³

Mr. C. J. Doherty maintained that no such amendment was necessary in the light of the real meaning of Article X. The undisturbed power of the Parliament of Canada would always stand between the operations of the Council under Article X and the people of Canada. The nation is sovereign, and Article X was meant only as a joint guarantee to the political

1. Ibid, p.96

2. Ibid, p.97

3. Canadian Annual Review, 1920, Vol I, p. 108.

independence of all members of the League. Should a case even come before the Council involving a contribution of men or money by Canada, she, automatically, would become a member of the Council, and in the Council decision must be unanimous in order to become operative. Moreover, any military action suggested would have to be sanctioned by the Canadian Parliament.

The vote on the amendment proposed by Mr. Fielding was defeated 112 to 71 and the motion made for approval of the Treaty by Sir Robert Borden was carried without division.

In the Senate the same battle was repeated. Canada was signing away her autonomy. Canada would be expected to fight wars in which she had no voice. There were several suggestions to withhold approval of the Treaty until the United States had made its decision concerning the Treaty - and the League. The Senate, however, joined with the House of Commons in passing a resolution approving the Treaty. ¹ An Order-in-Council was passed on September 12th and cabled to London asking the King to ratify the Treaty "for and in respect of the Dominion of Canada."

Meanwhile, in the United States, President Wilson was having trouble in securing ratification for the Treaty. He

1. Journal of the Parliaments of the Empire, 1920, Vol. I
p. 100

was finally forced to accept defeat. The United States would not join the League. When the Canadian Parliament approved the Treaty independently of the action of the United States the full weight of representing the North American Continent fell upon the shoulders of Canada.¹ It was a great responsibility, but throughout the history of the League, Canada interpreted accurately the pulse of her neighbor to the South.

3. The League at Work.

By virtue of the terms of Part I, Article I of the Treaty embodying the Covenant of the League, Canada, as a signatory of the Treaty became one of the original members of the League of Nations. Her policy in the League was, on the whole, consistent. The League Covenant bound Canada to numerous indefinite commitments for the preservation of the status quo in regions in which she had only a remote interest. Being a North American power, Canada did not feel the need for guarantees of political and territorial integrity as did the European Powers. Her proximity to the United States and her bond of friendship with the United States gave her actual and implicit protection against aggression. Thus, as the only representative of North America on the League Assembly, Canada felt her policy must in no way conflict with the interests or policies of the United States.

1. Mexico did not join the League of Nations until September 12th, 1931.

The first Assembly of the League of Nations was opened on November 15th, 1920, and the members presented for consideration an avalanche of resolutions having for their purpose the amendment of various articles of the Covenant. It was decided that in view of the numerous proposed amendments "the Council be invited to appoint a Committee to study the said proposals of amendments, together with any which may be submitted by a member of the League, within a period to be fixed by the Council. The Committee shall report to the Council, which shall place the conclusions before the Assembly at the next session." 1

It was a foregone conclusion as to what would happen to the amendment proposed by Mr. Doherty of the Canadian Delegation when he moved "that Article X of the Covenant of the League of Nations be and is hereby struck out." 2 The Canadian amendment was referred to the Committee on Amendments that was set up by the Council in February, 1921. When the Committee reported back, it referred the Canadian amendment to an international Committee of jurists which had been established, originally to give an opinion as to the legal scope of Article 18. The Committee of jurists was asked to give its opinion as to what obligations Article X imposed on members of the

1. Records of the First Assembly, 1920, p.161

2. Ibid, p.279.

League over and above the obligations imposed by other Articles in the Covenant.

In reporting their findings during the meeting of the Second Assembly in 1921 the Committee of Jurists held as their opinion of the meaning of Article X that changes in the international status of States, territorially or politically, can be made only as a result of peaceful negotiations. All members of the League, therefore, have a twofold obligation;

- (1) mutually respecting each others territorial integrity and in respecting existing political independence, and -
- (2) maintaining these against all external aggression.

The Committee carefully pointed out that the Council, under the terms of Article X could not impose the means to be employed to assist a state which was the victim of aggression. It could only advise as to the means to be employed.¹

It was thought that an interpretative resolution might satisfy the Canadians, but the Canadian Delegation was in no way prepared to accept such a concession. Mr. Doherty declared in a speech to the Assembly: "Rightly or wrongly we think that we preceive a dangerous principle in Article X. By its wording it seems to lay down the principle that possession can

1. Armstrong, William Earl, "Canada and the League of Nations", Geneva, Imprimerie Jent, 1930, p. 67-68.

take precedence over justice." ¹ Divergent views in debates before the Assembly finally led to the acceptance of a resolution to postpone the question for further discussion to the Third Assembly meeting.

Meanwhile there had been a change of Government in Canada. The Liberal Party came into power, and Messrs. Fielding and Lapointe were appointed to represent Canada in the League Assembly. The new representatives carried on the same policy so ably pursued by their predecessors. The Canadian goal was still to have Article X removed from the League Covenant. The new representatives, however, were impressed with the hostility to their stand, and therefore decided to compromise. They announced to the Assembly that Canada would be willing to accept an amendment to the Article which would add to it the phrase: "taking into account geographical considerations" and a sentence which would guarantee each Member State the right to have its own Parliament decide whether or not that state was obliged to go to war should the Council decide on such measures in the case of aggressive action by some other State. France, as always, still insisted upon leaving Article X of the Covenant intact. The question was therefore postponed for a third time. ²

1. Soward, Frederic H., "Canada and the League of Nations", Ottawa, League of Nations Society in Canada, 1931, p. 16.

2. Ibid, p. 16

When the Fourth Assembly gathered in 1923, the Canadian Amendment was placed on the agenda for discussion. After considerable debate the Canadian Delegation decided to press for an interpretative resolution rather than an amendment. This request was presented to the First Committee of the Assembly by Sir Lomer Gouin. That Committee, after careful study, endorsed a resolution which was acceptable to Canada. In essence, the resolution provided that in applying Article X, the Council was to take geographical position into account when recommending action to prevent wars, and that, while the Council's recommendations were to be considered as highly important to all members, it was to be for every individual member to decide for itself the degree of obligation to which it was to be bound.¹

When the resolution was put to a vote the results illustrated the stress placed upon Article X by European States. The following States voted in favor of the resolution: Australia, Austria, Belgium, Brazil, the British Empire (United Kingdom), Bulgaria, Canada, Chile, China, Cuba, Denmark, France, Greece, Hungary, India, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal,

1. Baker, P. J. Noel, "The Present Juridical Status of the British Dominions in International Law", London, Longmans, 1929, p. 112.

Salvador, South Africa, Spain, Sweden, Switzerland, and Uruguay - a total of 29 countries.

Albania, Argentina, Bolivia, Columbia, Costa Rica, Czechoslovakia, Esthonia, Finland, Guatemala, Haiti, Honduras, Latvia, Liberia, Lithuania, Nicaragua, Panama, Paraguay, Peru, Poland, Roumania, Siam, Venezuela, and Yugoslavia - a total of 23 countries abstained from voting.

Persia alone voted against the resolution.

Looking closely at the distribution of votes, several interesting facts can be seen. Countries abstaining from the vote, did so, probably, because they disliked the resolution but were not willing to vote openly against it. These Countries included all the new States created by World War I plus Liberia, Siam, and six of the Latin American States. Surely the newly created countries wanted Article X of the Covenant left intact, but they were not willing to commit themselves on the question for fear of causing ^{enmity} ~~amnesty~~.

France and Belgium both endorsed the resolution, though with reluctance. The Treaty of Mutual Guarantee which was being drafted at that time, however, provided the sanctions which they felt were necessary for security, and little could be lost by endorsing the resolution. It was quite natural for the British Commonwealth Countries to support the resolution, and so was it natural for the three ex-enemy powers represented in the Assembly to do likewise.

Persia rejected the resolution on the ground that she was surrounded by Russia, Turkey, and Afghanistan: None of these countries, at that time, were members of the League.

Persia's action defeated the resolution under the unanimity rule of the Assembly. However, when the President of the Assembly announced the vote he stated he would not declare the motion rejected. The support given the resolution was strong enough to influence the procedure of the Council, if, at any time in the future, it was forced to act under Article X. Canada was thereby re-assured that the Article would not curtail her powers of responsible government.

Sanctions were provided for under Article 16 of the Covenant as well as under Article X and it is only natural that that Article also came under the scrutiny of the members of the League early in its history. Although Canada's part in the discussions concerning Article 16 were not so active as had been the case on Article X, she was interested in it. The Article as it stood in the Covenant provided if any member of the League resorted to war in disregard of the Covenant provisions, that act would be deemed an act against all other members of the League. The League members would thus be bound to sever all trade and financial relations, as well as to prohibit all intercourse between their nationals and the nationals of the Covenant-breaking State. The League members would also be bound to prevent financial or commercial intercourse between nationals of the Covenant-breaking State

and the nationals of any other State, whether or not that State was a member of the League. In addition to these economic sanctions, the Council was empowered to recommend any military action by the members of the League which the Council deemed necessary. All Member States agreed to support each others sanctions against the Covenant-breaking State, and to provide passage through their territory of any forces used by the Members of the League which were co-operating to protect the Covenants of the League. ¹

This Article placed Canada in an awkward position. Canada, as a member of the League could be forced into War with the United States, a non-league member, by interfering with trade between the United States and a Covenant-breaking State, or worse than that, Canada could, conceivably at some future time, be obliged to allow passage of troops through her territory should a League Member become involved in a War with the United States.

Prompted by Switzerland, Holland, and the Scandinavian neutrals during the war, Lord Robert Cecil suggested the International Blockade Commission devise a plan which would protect States, which by their geographic position, would suffer great danger by enforcing the sanctions of Article 16 against a neighboring State. ²

1. Covenant of the League of Nations, Article XVI

2. Armstrong, "Canada and the League" p. 107.

The recommendations of the Blockade Committee that the Council could postpone for any specified State the measures provided for by Article 16 was accepted by the Assembly. The amendment did not admit, however, that a State could withdraw from the obligations imposed by the Article.

Although this amendment to Article 16 was more acceptable to Canada than had it remained unchanged, she was not fully satisfied. By her attitude in the Assembly, it can be seen that she was willing to accept financial or economic sanctions but she had a definite distaste for military obligations.

4. The Problem of Disarmament and Security.

Most of the European States were concerned with gaining a guarantee of their security, and numerous private treaties were being negotiated between these States in an attempt to gain this security. Thus, the problem of security came up in the Assembly time and time again. During the meeting of the Fourth Assembly the problem came up once again, this time in connection with disarmament. Article 7 of the Covenant provided that in order to maintain peace, national armaments had to be reduced. It was the duty of the Council to formulate plans for such reduction of armaments, and all countries who adopted the Councils recommendations were to be bound accordingly. ¹

1. Covenant of the League of Nations, Article VII

The Temporary Mixed Commission was given the task of formulating a scheme on the order of a draft treaty to secure the reduction of national armaments. Before that Commission made any recommendations it considered several plans - including both the British and the French recommendations. On the suggestion of M. De Jouvenel, the French representative, the Assembly adopted Resolution 14 which presented the plan for the proposed Treaty of Mutual Assistance.

Resolution 14 contained four clauses, carefully designed to offer a compromise between the two groups of States which had been in disagreement as to whether the Treaty should strive toward disarmament as an end - the view held by the British; or whether the Treaty should strive for security as its end - the view held by the French.

The Resolution proposed that :

- (1) A reduction of armaments must be general, and
- (2) to be acceptable it must offer suitable guarantees.
- (3) That the obligation to render assistance to a Country attacked should be guided in principle by the geographical position of the obligated Countries
- (4) That the reduction of armaments should be proportionate to the guarantees of the Treaty. 1

In stating their opinions of the Resolution, the League members discovered how divergent their views were. The Scandinavian Countries demanded no guarantees for themselves, and, therefore, should not be forced to guarantee the security of any other Country. They did, however,

approve of the idea of a general reduction in armaments. The French Government emphasised the importance it placed on military guarantees, and any attempt to lay down a scale of armaments a priori had to be abandoned. Disarmament could not precede measures for mutual assistance. The Netherlands Government felt that Partial Treaties, on the basis of geographic regions, were a step backward, and that only a Treaty obligating all members of the League could be acceptable.

Canada's position was easily understandable, in as much as it was consistent with her views on Article X and Article 16 of the League Covenant. She was willing to adhere to a general reduction of armaments, but was unwilling to bind herself to a treaty of Mutual Guarantee. Her argument was that the peculiar national conditions and geographic situation would make it difficult for her to adhere to such a treaty. The third clause, limiting the obligation to render aid to only those countries attacked in the same part of the globe was also unacceptable. From first glance, it appears that this clause might have been acceptable, but Canada, as a member of the British Commonwealth of Nations, would be at war whenever any member of the Commonwealth was at war. Thus, the clause was no safeguard against war as far as Canada was concerned, even though it might be considered a safeguard by other Countries.¹

1. Ibid, p. 119-123.

The Temporary Mixed Commission, in co-operation with the Permanent Advisory Commission, went ahead in preparing a draft treaty containing, as far as possible, the principles found in the statements of the various Governments. The Draft Treaty of Mutual Assistance, the fruit of their efforts, was placed before the Fourth Assembly in the spring of 1924.

The Treaty made provision for security through a general reduction of armaments for all Countries. It made the special provision that nations need not co-operate in military operations outside their own continent. The treaty allowed special treaties between States, guaranteeing security, but the League Council was to have the privilege to examine any or all of these special treaties. The League sanctions were to come into effect immediately upon the Commission of an act of aggression by any Country. However, the Council was obligated to name, specifically, the aggressor nation within four days of an act of aggression. Any active measures recommended by the Council were to be adhered to by all members of the League.

Before the Treaty was opened for signatures, the Assembly asked for observations on it from the Member States. Virtually the same alinement of States, each with the same arguments, formed as had been the case over the vote on the interpretative resolution. Those Countries needing security were of the opinion that the Treaty did not go far enough, although they were willing to accept it, while those Countries who felt safe and feared obligations, were opposed to it. Sixteen

States, including France, the Little Entente, and the Baltic States, accepted in principle the Draft Treaty of Mutual Assistance. On the otherhand, twelve States insisted they would not adhere to the Treaty. These States, among others, included the British Commonwealth Countries, the Scandinavian Countries, Spain, and the Netherlands.

Canada rejected the Draft Treaty on the ground that it "created an obligation wider in its extent and more precise in its implication than any which Article X could be intrepeted as proposing; and it proposes moreover to transfer the right to decide upon the scope of action Canada should take from the Canadian Parliament to the Council of the League of Nations."¹

The deadlock of opinion concerning the Draft Treaty was broken early in 1924 during the meeting of the Fifth Assembly. There had been a change of Govern ments that year in both France and Great Britain. Mr. Ramsey MacDonald of the British Labour Party had replaced Mr. Baldwin as Prime Minister of Great Britain, and, in France M. Edouard Herriot had replaced M. Poincare as Prime Minister. The personal understanding between the two men of the issues confronting the statesmen at the meeting of the Fifth Assembly of the League of Nations was very encouraging. ²

1. Soward, Canada and the League, p. 132.

2. Toynbee, Arnold J., "Survey of International Affairs", London, Oxford, 1924. p.38.

In their opening speeches before the League Assembly, Mr. MacDonald stressed arbitration as the key to peace and security, and M. Herriot agreed that "arbitration is essential, but is not sufficient." He did, however, repudiate the former French position that security could only be obtained by force.¹ France and Britain had at last come to an understanding on the question of security - or at least so it seemed outwardly.

With able assistants, the two Prime Ministers set about the task of devising a draft Protocol of Arbitration and Security. When presented to the Assembly, it was adopted as the "Protocol for the Pacific Settlement of International Disputes." The Protocol, commonly referred to as the "Geneva Protocol" had as its main feature arbitration. It was designed to promote disarmament by creating security. Security was to be created by outlawing war; and outlawing of war was to be enforced by uniting the world against the would-be aggressor.²

In general, the Protocol provided that all legal disputes between States were to be settled by the Permanent Court of International Justice; any other type of dispute was to be submitted to arbitration. The Protocol defined the aggressor as any State which refused to accept summons to submit a dispute to pacific settlement as provided in the Covenant and

1. Armstrong, Canada and the League, p. 136

2. Rappard, William E., "International Relations as viewed from Geneva", New Haven, Yale, 1925, p. 156.

the Protocol⁰, to abide by the award of the Court of Arbitration tribunal or unanimous pronouncement of the Council, or to observe an armistice enjoined by the Council pending its decision as to the aggressor. It was to be the duty of the nations to come to the aid of the victim of aggression, but it was for the States themselves to decide in what manner they were obligated to assist. The financial and economic sanctions of the League Covenant were to be used automatically however, and the Council was to recommend what military contributions were to be made by the Member States. It was hoped that through this guarantee of security, a psychological state would be created, making possible a general policy of disarmament. ¹

Section V of the Protocol gave rise, early in the discussions, to a serious question. That section supposedly safeguarded matters of domestic jurisdiction. The British Commonwealth of Nations delegations held that such matters should be referred to the Permanent Court whose decision would be binding. Japan protested this with the plea that it was unjust for a nation injured by the action of another in a sphere lying within its domestic jurisdiction, should be denied pacific redress by the League and then be branded as an aggressor if it took steps to define its legitimate interests by force. In studying the Japanese objection, the

1. Geneva Protocol.

Assembly accepted an amendment which provided that although domestic questions involving international problems were to be submitted to the Permanent Court for a decision, it would not prevent consideration of the situation by the Council or the Assembly.

Canada, although not enthusiastic ^{about} of the original understanding of Section V, was completely un-willing to accept this amendment. She maintained that questions of domestic jurisdiction must be controlled by her own Government, and was not, in any way, the concern of the League.

However, the Protocol^o was accepted by the Assembly on the last day of debates, Senator Dandurand, in his first appearance at Geneva, presented the Canadian attitude toward the Protocol^o. He pointed out that arbitration, security and disarmament, the three chief pillars of the Protocol^o, had long been accepted and applied in Canada, and that Canada would be prepared to accept the compulsory arbitration and compulsory jurisdiction of the International Court. Regarding disarmament, he pointed to Canada as an example to the World - Canada, with its unarmed frontier with the United States. On the question of security, he carefully avoided committing himself, but stated that the question would be studied by the Canadian Government.

The British Government had worked closely with the Dominions while the Protocol^o was being formulated, and now the

Dominions felt they should, as far as possible, consult with the British Government on the action to be taken on the Protocol. Canada was against ratifying it. The spokesmen for both the Liberals and the Conservatives in the House of Commons and the Senate voted for a Government rejection on the Protocol. A clash with the British Government was opportunely avoided by the fall of the MacDonald Labour Government, the Baldwin Government being returned to office at the end of 1924. It will be remembered that Prime Minister MacDonald had favored the Protocol when Baldwin had stood in opposition. Thus, the way was now cleared for a joint rejection of the Protocol by the British Government and the Dominions.

The official stand of the Canadian Government, as the facts were communicated to the British was that they were willing to give the League wholehearted support on its work in co-operation and conciliation, and were even willing to accept compulsory jurisdiction of the Permanent Court. Also, Canada was ready to participate in a general disarmament program as long as that program did not involve prior acceptance of the Protocol. But it was not in Canada's interest, or for that matter, in the interest of the British Empire, or the League itself " to recommend to Parliament adherence to the Protocol, and particularly to its rigid provisions for application of economic and military sanctions in every future war The effect of non-participation of the United

States upon attempts to enforce sanctions and particularly so in the case of contiguous countries like Canada....." is an important factor.¹ The Government of Canada could not subscribe to the obligations of the Protocol for the Pacific Settlement of International Disputes.

When the Council of the League met in March, the British Delegate, Mr. Chamberlain, repudiated the Protocol - with the consent of the Dominion Governments. By this time seventeen States had signed the Geneva Protocol, but the British decision sealed its fate.

Canada, in January, 1925, made its first official appointment in an international capacity when Dr. W. A. Riddell was appointed as the Canadian Advisory Officer to the League of Nations. The appointment was made necessary by the increasing number of League Conferences and by the feeling of the Canadian Government that closer touch should be kept with League developments.

France's request for security had been left unacknowledged with the rejection of the Geneva Protocol. Therefore, Britain proposed in 1925, that a regional pact be negotiated with special reference to the frontiers of France and Germany. Although the British Government was unwilling to sign a universal agreement guaranteeing the frontier of all Europe,

1. Cmd. 2458. Nos. 11, March 4, 1925.

it would enter into negotiations of a regional character.

For this purpose, a special Conference of interested parties was called at Locarno from October 5th - 16th, 1925, and out of the Conference came the Pact of Mutual Guarantee between France, Great Britain, Belgium, Germany, and Italy. It is this Pact which is commonly referred to as the Treaty of Locarno. By it, Britain agreed that if the Rhine frontier were attacked, she would assist the party against whom the attack was directed. The parties agreed that they would not resort to war against each other except for defensive reasons or under Article 16 of the Covenant. For the sake of the Dominions, Article 9 of the Treaty stated:

"The present treaty shall impose no obligations upon any of the British Dominions or upon India unless the Government of such Dominions or India signifies its acceptance thereof." 1

Although Locarno was outside the League, it was embedded in the League system.

No Dominion representative was in attendance at the Conference, but the Dominions were kept completely informed of the negotiations. Prime Minister King of Canada took the attitude that the negotiations were the concern of the United Kingdom and not of Canada. The fact that Canada was a member of the British Commonwealth of Nations might possibly involve

1. Treaty of Locarno.

her in a war on the side of Britain, but her participation in such a war need not be active. There is a distinction between active obligations and legal status. Canada was not a party to the Treaty, and therefore was not actively obligated should Britain become involved in a war because of the Treaty. Canada's stand was that Locarno imposed an obligation on only one part of the Empire - Great Britain. For those reasons Canada did not ratify the Locarno Pact, nor did Great Britain expect her to.

It was at the Sixth Assembly meeting that Canada was honored by having one of her delegates - Senator Dandurand - elected president of the Assembly. The gesture was especially significant in view of the Canadian stand on the recently rejected Geneva Protocol. Senator Dandurand had been extremely popular in the previous Assembly meeting, and with his command of both the English and French languages, he had made an excellent impression. Canada, and in particular Senator Dandurand, had been duly flattered.

Not long afterwards, during the meeting of the Eighth Assembly in 1927, Canada was again honored, this time by being elected to membership on the League Council. Membership on the Council had been, in practice, usually on the basis of one-third of the non-permanent seats going to Latin America, one non-permanent seat to an Asiatic State, and the remainder going to European Members. At the Seventh Assembly Sir George Foster arose on the day before the Council elections and

announced that:

"So far as my Country and the other members of the British Overseas Countries are concerned, we have not hitherto made, and are not now making any claim for a seat on the Council of the League. But, it is pertinent, and I think it is right at this stage to say to this Assembly and to the League itself, that we consider that we have equal rights to representation on the Council and otherwise with every one of the fifty-six members of the League of Nations, and that we do not propose to waive that right." 1

When the balloting took place, Canada was given two complimentary votes, and the Irish Free State, which had announced its candidature, received eleven.

Canada, duly impressed by the complimentary votes she had received announced her candidature for a seat on the Council during the meeting of the Seventh Assembly. She felt that she might be in a good position to contribute something of value to the work of the Council, detached as she was from European complications. She also believed that, unless she asserted herself, the Dominions would be excluded from Council membership in the future. The British Delegation and the other Dominion Delegations gave Canada their full support. The Scandinavian Delegations also gave her their support. The election resulted in Canada, Cuba, and Finland gaining the non-permanent seats. With Canada on the League Council, due weight was given, for the first time, to the geographical consideration of North America which, previously

1. Soward, Canada and the League, p. 24

had been without representation on the Council. It was indeed a great honor to Canada and of great significance to the British Empire to have one of its members chosen as a member of the Council of the League of Nations.¹

Canada, as a member of the Council, automatically became a member of the Preparatory Committee for the Disarmament Conference. During the proceedings of that Committee, it is understandable that Canada should place her full weight on the side of disarmament.

When the German Delegate made a motion at the Sixth Session that all armaments should be prohibited, Dr. Riddell of Canada approved the motion. He also supported a proposal by the Chinese Delegate that compulsory military service be abolished. But, in as much as several States were opposed to these proposals, Dr. Riddell suggested that the task of disarmament be attacked more directly, that is, by establishing a quota system for armaments. The actual work of the Disarmament Commission amounted to little for it merely made a series of unadopted proposals and counter-proposals. Canada contributed nothing in the way of constructive suggestions, although she continued to emphasize her position by standing always on the side of disarmament.

Canada attended the Washington Naval Conference of 1921 - 1922, the Genoa Naval Conference of 1927, and the London Naval Conference of 1930. The results of these conferences

1. The London Times, September 16, 1927 - cited in Dawson, Robert MacGregor "The Development of Dominion Status, 1900 - 1936", 1926, Toronto, Oxford, 1937 p. 354.

were largely abortive. A brief mention of them, however, serves to show Canada's legal position at them. Canada was represented at the Washington Conference by Sir Robert Borden whose status was that of a member of the British Empire Delegation. At Genoa Canada had independent representation, Mr. Lapointe, and Dr. Riddell being her delegates. Colonel Ralston represented her as a part of the British Commonwealth of Nations Delegation at the London Conference.¹ At all these Conferences, Canada stood for a reduction of armaments.

Although the Kellogg-Briand Pact (the Pact of Paris) was technically outside the League, its signatories were, with the exception of the United States, members of the League, and the Pact did have reverberations on the League Covenant. For these reasons, the Pact of Paris must be included in this study.

It was M. Briand of France who suggested on April 6th, 1927, the anniversary of the United States entry into the War, that a treaty between France and the United States be concluded which would outlaw war. To this end, he sent a draft treaty to Washington on June 20th. Public opinion in the United States was, at this time, receptive to such a proposal, and, on December 28th, Mr. Kellogg communicated with M. Briand,

1. Armstrong, Canada and the League, ~~op. cit.~~ p. 181-182.

suggesting that the proposed treaty be enlarged to include all the principal powers. In this proposal M. Briand acquiesced.

Canada participated in the formulation of the Pact by separate invitation from the United States. In commenting on the preliminary draft of the Pact, Prime Minister King, in a note to the United States Minister to Canada, pointed out that Canada would sign the Pact on the condition that it would not interfere with her obligations under the League Covenant. It was the Canadian Government's belief that there was, however, no conflict either " in the letter or in the spirit between the Covenant and the multilateral Pact, or between the obligations assumed under each."¹ Prime Minister King then took the opportunity to acquaint the United States with "the difficulty that the League, a permanent organization, would experience should the United States Government not co-operate in permitting sanctions to be carried out."² He also emphasized the conciliatory and co-operative functions of the League, and the value of its permanent machinery.

The Pact, in its final form, was signed by Prime Minister King on behalf of Canada, and approved by the Canadian Parliament on February 22nd, 1929. ³

1. Ibid, p. 204.

2. For text of the note, see: Ibid, p. 203-205

3. Canada, Debates, House of Commons, 1929, p. 367.

It is significant to note that in listing the signatory nations, the British Dominions were listed in Alphabetical order - Australia first, and Canada immediately after Belgium. There was no grouping of the Dominions under the heading "The British Empire" as had been the case with the Treaty of Versailles. Separate instruments of ratification were prepared for each Dominion by the British Foreign Office signed by the King. The Canadian Minister in Washington deposited the instrument binding Canada. This was probably the first occasion on which ratification of an important treaty was effected by a separate Canadian instrument, and it, thereby, recognized Canada's international status, not merely within the League of Nations, but in the larger international sphere.¹

France, the United States, Belgium, Canada, Great Britain, Australia, New Zealand, South Africa, the Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia were the original signatories of the Briand-Kellog Pact for the Renunciation of War, which was signed at Paris on August 27th, 1928. Since then other nations have signed the Pact - sixty-two in total. They all pledged to seek the solution of disputes or conflicts by pacific means only, and condemned war as an instrument of national policy.

Because of her membership in the Council, Canada sat on the Committee on arbitration and security. In studying

1. Baker, Present Juridical Status of British Dominions in International Law" p. 208.

the problem of arbitration and security the Committee discovered there were two groups of delegates in the League, each group having a different view of the problem. The first group, including France and her Allies, held that the Geneva Protocol should form a working basis for the problem of arbitration and security; the second group, made up of the British Empire, the Dominions, Italy and Japan, believed that the League Covenant provided sufficient security. In an attempt to satisfy both groups, the Drafting Committee submitted to the Ninth Assembly a General Act of Four Chapters. The Act provided that non-justiciable disputes not settled by diplomacy be referred to a Conciliation Commission to be established between the parties to the dispute. All justiciable disputes were to be submitted to the Permanent Court of International Justice for decision. If conciliation failed, a dispute had to be referred to an arbit^Tial tribunal consisting of five members within one month after the termination of the work of the Conciliation Commission. While pacific procedure was being carried on, the disputants were to agree to abstain from action which might aggravate or extend the dispute. These provisions were not to apply to disputes arising out of facts antedating the Treaty, to disputes of a domestic nature, or to disputes concerned with territorial status.

Dr. Riddell, in the Assembly debate on the Act, emphasized the fact that Canada had practiced the principles of con-

ciliation and investigation with success for years, and that she was entirely favourable to the principles set forth in the Act.

The General Act for the Pacific Settlement of International Disputes, providing for arbitration and conciliation, but omitting any mention of sanctions, was adopted by the Ninth Assembly. Canada acceded to the General Act on July 1st, 1931.¹

The problem of financial assistance to States the victim of aggression was also considered by the Committee on Arbitration and Security. The Committee devised a scheme whereby financial aid would be pledged by League Members to an attacked country. In considering the plan, the Canadian Delegation supported the idea on the condition that it would not increase Canada's obligations under the Covenant.

Sir George Foster, in the Third Committee of the Third Assembly, gave a full explanation of Canada's attitude toward financial assistance in times of war or threat of war. Because of her geographic location it was probable that Canada would not be in need of financial assistance, but she was sympathetic to the scheme. The participation of Canada in any sanctions would have to be with the approval of the

1. Palmer, Gerald E., "Consultation and co-operation in the British Commonwealth", London, Oxford, 1934, p. 158.

Government and Parliament. He did object to the plan on one point. It was based on the pre-supposition that war was probable and possible - in direct conflict with the Pact of Paris which had renounced War.

Eventually, the Convention for Financial Assistance to States Victims of Aggression was submitted by the Committee to the Eleventh Assembly where it was approved.

The Permanent Court of International Justice had been established in December, 1920, following the mandate given under Article 14 of the Covenant of the League of Nations. The text which determined the Constitution, Organization, Jurisdiction, and Procedure is found mainly in the Statute which was approved by the League Assembly on December 20th, 1920. The text of that Statute was put into a separate treaty and duly ratified by a number of States. The Court, established by the Statute, was competent to hear and determine any dispute of an international character "which the Parties thereto submit to it." An optional clause attached to the Statute provided that any State, upon accepting the optional clause, recognized as compulsory the jurisdiction of the Court in all legal disputes concerning:

- (1) the interpretation of a Treaty.
- (2) any question of International Law.
- (3) any breach of an international obligation
- (4) any question of reparation. 1

Canada had rejected the entire Protocol, including the Optional Clause, when the International Court was established. Some of the Dominions, however, accepted the Protocol but not the Optional Clause. At the Imperial Conference Meeting of 1926, it had been agreed that no member of the Commonwealth should sign the Optional Clause until all were prepared to do so. In 1928, the Canadian Government felt it should sign the Optional Clause, and, therefore, advised the other members of the Commonwealth accordingly.

The British Government of that day was unprepared to sign the Clause, but, with the advent of the Labour Government in mid-1929, the policy of the British Government changed. Thus, in August, 1929, the Canadian Government was informed that the British also intended to sign the Optional Clause. The other countries in the Commonwealth followed Britain's lead, and all signed the Clause during the next meeting of the League Assembly - the Tenth Assembly. ¹

Mr. Dandurand in signing for Canada, made a reservation in behalf of Canada. He said:-

"The Dominion of Canada has excluded from the purview of the Court legal disputes with other members of the British Commonwealth for the sole reason that it is its expressed policy to settle these matters by some other methods, and it has deemed opportune to include its will as a reservation although a doubt may exist as to such reservation being consistent with Article

1. Manning, C. A. W., "The Policies of the British Dominions in the League of Nations", London, Oxford, 1932, p. 37 - 40.

36 of the Statute of the Court."¹

This reservation, according to a subsequent statement by the Canadian Government, was simply a matter of policy.² The reservation made by Canada was also made by the other Commonwealth Nations - excepting Ireland.

Senator Dandurand in March, 1928, placed before the League Council the problem of minorities. The procedure worked out by the Council - that of protecting the minorities by several unconnected treaties - was not wholly satisfactory. In the Assembly Meeting of 1928, Holland suggested that a Permanent Minorities Commission be appointed to supervise the treatment of minorities. Although the suggestion was not accepted, it did raise a question, and the Council made a decision to refer the question to a sub-committee. This sub-committee advised a scheme which was adopted by the Council accepting several suggestion made by Senator Dandurand. The most important aspect of the plan was the right of minorities to petition the whole Council, instead of a Committee of Three as had been the practice previously.

September, 1930, ended Canada's three year term on the League Council, and, as a fitting climax, Sir Robert Borden, so instrumental in gaining for Canada a voice in the League,

1. Ibid, p. 40, see also, for the official reservation made by the Commonwealth as a Unit, Cmd. 3452, p. 5

2. See: Hancock, William Keith "Survey of British Commonwealth Affairs", London, Oxford, 1937, p. 607, for detailed discussion.

headed the Canadian Delegation to the Tenth Assembly. The Assembly bestowed upon him a fitting honor, when it elected him Chairman of the Sixth Committee - that committee which dealt with - in the Tenth Assembly - Refugees, Mandates, Minorities, and Slavery. Under the guidance of Sir Robert, the Committee presented to the Assembly a report which was accepted unanimously. The debate on the report of the Council to the Assembly was opened by Sir Robert. In his speech he admirably reflected upon the Canadian attitude to peace and disarmament.

"Let our faith have vision to look beyond, to behold the day when war shall be outside the pale of thought or imagination, when it shall be cast forth forever into the outer darkness of things accursed, its brow seared with the brand of eternal infamy." 1

The speech was acclaimed and re-echoed by other speakers through-out the world.

In retiring from her seat on the Council, Canada had the gratification of seeing another Dominion - the Irish Free State - elected to that coveted position. With the subsequent election of Australia to the Council in 1933, and New Zealand in 1936, Canada could claim responsibility for establishing the precedent for the principle that a British Dominion should continuously hold a Council seat.

1. Soward, Canada and the League, p. 32.

Part I of this thesis devoted a considerable amount of space to a discussion of the Statute of Westminster. For that reason, it is not necessary here to go into the subject again, except to remind the reader that that Statute placed the Dominions, legally, on an equal footing with Great Britain in the field of foreign relations. The attitude of Canada to the League did not change after the passage of that Act, though by it, Canada's position in the family of Nations, was strengthened.

5. The Decline of the League.

To trace the events in world history which ^{Transpired} ~~expired~~ between 1931 and the outbreak of war in 1939, is beyond the scope of this thesis. Such a study would not be irrelevant though, for each event had its effect on the League, and on Canada's role in the League. Sketching enough of the trend of events to put Canadian participation in the League in its perspective is necessary for an adequate understanding of Canada's actions.

Through out the 1920's regional groups had operated in the League, and in the 1930's they became more sharply delineated, for, in their efforts to expand, they had continually jostled one another. The world came to be divided into two groups; the have and the have-not nations. The depression of 1929 aggravated the whole scene, and brought with it discontent. The philosophy of nationalism gained ascendancy over the philosophy of internationalism. Italy

and Germany turned to fascist dictatorships, and other States soon followed suit. 1933, saw the resignation of Germany and Japan from the League. Disarmament agreements were thrown to the winds. War became more possible on the basis of alignment of ideologies as well as on economic and national grounds. Indeed, the 1930's predicted the beginning of the end of the League of Nations.

It has been generally conceded that the Manchurian Affair was the first great failure for the League. In making such a statement one must be careful to differentiate between the machinery of the League itself and the League members. Actually, the failure was a failure of the League members to face the full implications of the Covenant.

Japan moved into Manchuria on September 18th - 19th, 1931 in full violation of the League Covenant, the Pact of Paris, and the Washington Nine Power Treaty of 1922. Japan had been a signatory to all three. Her action precipitated world-wide diplomatic activity. ¹

In the League the question of Japan's actions was immediately taken up by the Council. Its first act was to request the Chinese and Japanese Governments to refrain from any action which might aggravate the situation or prejudice the peaceful settlement of the problem. A Commission of

1. Toynbee, Survey of Int'l. Affairs, 1931, p. 473

Inquiry was appointed, headed by Lord Lytton, to investigate on the scene, the Manchurian Affair. In the meantime the League Council continued in its efforts to mediate between China and Japan. No move was made during this period to bring Article 16 of the Covenant into play. When the Lytton Report, having been completed in the meantime, came before the Special Session of the Assembly on December 8th, 1932, Canada spoke against the adoption. She could not support the Report because it would, in all likelihood, involve sending Canadian Troops to the Far East. Canada, was, of course, following the attitude of the Great Powers.¹

In stating what he thought was the official attitude of Canada, Mr. Cahan, before the League Assembly, on December 8th, took pains to re-affirm the established Canadian doctrine about the limited scope of Article X of the Covenant. His speech was a curious oration which seemed to support both sides - supporting Japan's action on the one hand, and condemning it on the other. He stressed the difficulties of the Japanese position in the Far East, but complained that the Japanese should have communicated to the League, at the time of the Military Coup, an explanation of their conduct and policy.²

1. Ibid, 1934, p. 493

2. Toynbee, Survey of Int'l Affairs, 1933, p. 493.

The Canadian Public criticised these remarks, which had in fact condoned Japan's action, and in defending his position, Mr. Cahan maintained "that he had merely advised conciliation and avoidance of extreme measures."¹ Speaking before the House of Commons he defended his statements by pointing out that at the time of his speech extreme measures against Japan were being proposed in the Assembly. The danger of war was implicit in the situation he had tried to ease.²

On February 24th, 1933, a Special Session of the Assembly adopted unanimously the Report of the Committee of nineteen on the Manchurian Affair, which applied the principle of arbitration to the dispute under Article 15 of the Covenant.³

The Canadian Government, in full concurrence with the Report, cabled their Canadian Advisory Officer at Geneva to make a statement to the effect that Canada supported the Report.⁴

When the Assembly adopted the Report, Japan withdrew from the League. In retaliation, the League punished Japan

1. Carter, Gwendolen M., "Consider the Record", Behind the Headlines Series, Canadian Institute of International Affairs, p. 17.

2. Canada, Debates, House of Commons - 1932-1933, p. 5059-5069.

3. Article 15 makes it mandatory for a dispute "not submitted to arbitration or judicial settlement in accordance with Art. 13," to be submitted to the League Council for arbitration.

4. For complete text of statement see: Canada, Debates, House of Commons, 1933, p. 2431.

by adopting the doctrine of non-recognition for the new State - Manchukuo. The United States joined with the League in that action.

The League, had, during the course of the Affair, taken no effective action. The members were unwilling to surrender their sovereignty for the sake of collective security. In referring to the League's action, the Chinese Delegate, Dr. Wellington Koo Stated:

"The absence of any effective action from the League in this case has encouraged those who have all along been proclaiming the belief that might is right. It has, in fact, placed a premium on aggression..... treaties guaranteeing security may be disregarded with impunity.... We have arrived at the cross-roads of the World's destiny. Our choice lies between an armed peace...which...postulates war as inevitable, and a peace based upon collective responsibility... it means, in fact, a war or peace." 1

With that, China gave up hope of aid from the League.

The Disarmament Conference of 1932, was unsuccessful for political nationalism held sway. Canada, in attendance, had little to offer the Conference save her own shining example of an unarmed State in the presence of a world-which was over-burdened with arms. In 1933, Germany, resigning from the League, defied the Treaty of Versailles and started on the road to re-armament for war. Japan gave formal notice of her denunciation of the Washington Naval Treaty of 1922, in 1934.

A dispute between Bolivia and Paraguay over the Gran

1. Dr. Wellington Koo, quoted from Toynbee, Survey of Int'l Affairs, 1933, p. 517.

~~Choco~~ region had been in progress for years, and, between 1933 and 1944 there was open warfare between the two countries. Efforts to conciliate the dispute were without avail. Bolivia, in 1934, agreed to accept certain League proposals for the settlement of the dispute, but Paraguay refused to co-operate. An arms embargo by 28 League members, Canada included among them, was consequently raised against Paraguay. Thereupon, in February, 1935, Paraguay gave notice of her withdrawal from the League. It was to the credit of the neighbouring South American States and not the League for finally bringing the hostilities to an end in October, 1935.

Meanwhile, in Canada, we had several incidents in the Parliament which throw light on Canada's attitude toward her role in foreign affairs. In the House of Commons on February 12th, 1934, a resolution was moved that a study of Canadian foreign policy, be made so that a definite policy could be formulated. Prime Minister Bennett refused to support the resolution on the grounds that Canada was a small nation and therefore not in a position to carry forward, positively, any declaration of a foreign policy.

A more surprising motion was introduced into the Senate by Senator A. D. McRae on April 17th, 1934. He moved that Canada withdraw from the League, and declare a definite foreign policy. This action, he hoped, would avoid being drawn into fulfilling any military or treaty obligations.

The motion was negotiated after Senator Dandurand had made clear that Canada, under her interpretation of Article X of the Covenant, could be called upon only by the Canadian Parliament to impose military sanctions.¹

Abyssinia proved to be the straw that broke the camel's back in the case of the League. Italy, in her quest for living space, invaded Ethiopia in October, 1935. The League was not long in taking action. The Council formally named Italy the aggressor, and two days later, a Committee composed of all member States² moved toward the imposition of sanctions against Italy. It was decided that the measures include:

- (1) An arms embargo
- (2) A ban on loans and credits
- (3) A boycott of Italian imports
- (4) An embargo on certain key raw materials exported to Italy.

These measures were imposed on Italy on November 18th. The commodities included on the sanctions list were not complete - petroleum and its derivatives, iron or steel, and coal not being on the list. Dr. Riddell urged that the sanctions be made more comprehensive, suggesting that oil, iron and coal be included on the list.³

1. Canada, Senate Debates, 1934 p. 237-253

2. Dr. Riddell was the Canadian Delegate.

3. For the text of Dr. Riddell's proposal see: Toynbee, "Survey of Int'l Affairs, 1935, Vol. I, p. 274.

Dr. Riddell's proposal was received with favor in most countries - France and Great Britain ~~excepted~~. Retrospection shows that pressure and implied threats from Italy accounted for the British and French attitude. In any case, their attitude negated Dr. Riddell's proposals.¹

In Canada, Dr. Riddell's outspokenness caused considerable embarrassment, and, on December 1st, the Canadian Government disavowed his remarks, claiming the statement as his personal observation and not in any way initiated by the Canadian Government.

To emphasise their disavowance, the Canadian Government relieved Dr. Riddell of his post at Geneva. At the same time, the Canadian Government stated that the Government's attitude toward the League had not changed, and that Canada might still support the addition of oil, etc. to the sanctions list.²

France and Great Britain, through the Hoare-Laval Agreement, put a virtual stop to any action the League might have taken in behalf of Ethiopia. The Agreement, concluded on September 10th, 1935, recognized that efforts at conciliation had failed. In that light, France and Britain agreed to rule out military sanctions or closure of the Suez Canal, in fact,

1. Ibid, p. 275.

2. Ibid, p. 274.

to rule out everything that might lead to war. Because of this Agreement, any effective action in behalf of Ethiopia by the League was completely out of the question.¹ Britain and France refused to offer active support to Ethiopia, and the other States, members of the League, were more than willing to follow their lead.

On June 18th, 1936, Canada announced that the sanctions imposed by the League were unworkable, and thereupon, withdrew her active support from them. Others followed. Ethiopia's fate had been sealed, and so had the fate of the League of Nations. No nation was willing to commit itself to effective action. Canada's stand in the League was consistent with her past. She was always constructive and model in the field of active co-operation in the actual conduct of the League's work, yet, never once had she committed herself to support League actions which might have involved military commitments and war. In this stand Canada had not been alone.

The events following the conclusion of the Ethiopian Affair have become history. On March 7th, 1936, Germany reoccupied the Rhineland. On July 19th, 1936, Civil War broke out in Spain, a civil war between the ideologies of Communism and Fascism. Japan launched a full attack on China proper in 1937. In 1938 there was the disgrace at Munich.

1. Toynbee, Survey of Int'l Affairs, Vol II, 1935, p. 184.

In 1939 - WAR! War on the Continent of Europe, which soon spread, like a raging fire, to all corners of the World. Each crisis came and went, the League being unable to act. Nationalism, rearmament, and military defensive-offensive alliances had forced co-operation and collective security out of the picture.

Statements on Canadian Foreign Policy have been few. However, in 1936, the Prime Minister made one before the House of Commons to the effect that Canada was a small nation, and because of that, had to take a back-seat at Geneva. He said:

"The League has a long range importance, but ~~ex~~ternal affairs mean an overwhelming degree in our relations with other members of the British Commonwealth, particularly the United Kingdom, and with the United States. I believe that Canada's first duty is to the League and the British Empire to keep this Country united." 1

The League came second and merited only passive support. Canada was always loath to assume obligations of a positive nature. This attitude was not confined to Canada alone. The situation was the same in each country. There is no wonder the League failed.

1. Canada, Debates, House of Commons, 1936, p. 3869.

PART THREE

CANADA AND THE U.N.O.

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Canada and the U. N. O.

1. Prelude to San Francisco.

Victory in World War II for the United Nations was not yet in sight when the plan for a new and greater world organization first took form in the minds of Allied Statesmen. President Roosevelt's "Four Freedoms" speech, and the Atlantic Charter drawn up at a meeting between Churchill and Roosevelt were documents addressed to the people of the world assuring them that free peoples do have rights, and with those rights go certain duties. Only when the people of the world insist on their rights and assume their responsibilities can a better world be built. These principles were given support in the United Nations Declaration of 1942 - a declaration signed by twenty-six "United Nations" and subsequently endorsed by nine others.

The Moscow Declaration of November 1st, 1943, made jointly by the Governments of the United Kingdom, the United States of America, and the Union of Soviet Socialist Republics, and the Republic of China¹ recognized:-

"the necessity of establishing at the earliest practicable date, a general international organization, based on the principle of the

1. China was not in attendance during the meeting of the Moscow Conference from October 19 - 30, 1943, but she did concur in the declaration which came out of that conference.

sovereign equality of all peace-loving states, large and small, for the maintenance of international peace and security." 1

From this declaration stemmed the first constructive work on an international organization. Each of the four powers prepared draft documents which were circulated among themselves. It was these documents which formed the working basis of the Dumbarton Oaks Conference.

Canada, not being a party to any of these meetings, joined with the United Kingdom, as did the other Dominions, in a Prime Minister's meeting in London in May, 1944, and discussed and proposed revisions to the United Kingdom proposals.

Representatives of the four great powers met at Dumbarton Oaks in Washington, D.C., from August 21st to October 7th, 1944. From the conversations held there, the Dumbarton Oaks Proposals resulted. It was these proposals that became the working outline for the San Francisco Conference on International Organization.

Although Canada was not represented at the Dumbarton Oaks Conference, she did manage to sit on the side-lines and make her voice heard through the United Kingdom delegation, which was in attendance. Daily meetings were held

1. Quoted from the text of the Moscow Conference from Part Two, the "Four Power Declaration", Article 4. The Canadian Institute of International Affairs, "The Nations have declared," 1945, p.16

between the United Kingdom delegation and the representatives of the Diplomatic missions of the Dominions in Washington. In this way, the United Kingdom was made familiar with the Dominion's views; the Dominion Governments, at the same time, ^{received} ~~getting~~ day-by-day reports on the progress of the discussions.

The discussions at Dumbarton Oaks left several questions open for future settlement. The most important of these questions - voting procedure in the Security Council - was settled between the Governments of the United States, the Soviet Union, and the United Kingdom at the Crimea Conference at Yalta in February, 1945.

2. Canada at San Francisco.

On March 5th, 1945, the United States of America, on its own behalf and in behalf of China, the United Kingdom, and the Soviet Union, sent invitations to the other United Nations to attend at San Francisco, a United Nations Conference on International Organization. The Conference was to adopt a charter for an International Organization on the basis of the proposals put forth in the Dumbarton Oaks Proposals.

The Parliament of Canada, upon being notified of Canada's invitation to the Conference, endorsed by an overwhelming majority a resolution approving the Government's acceptance of the invitation. In doing so, it recognized that the

establishment of a New World Organization was necessary for the well-being of mankind and for Canada. The resolution concluded with the statement that the Charter establishing the international organization should be submitted to Parliament for approval before it be ratified by the Government.¹

Before the Conference at San Francisco was convened, a meeting of representatives of the Commonwealth was held from April 4th - 13th, 1945, in London to discuss the Dumbarton Oaks Proposals. In this way, representatives of all the Dominions were able to exchange views and ideas on the proposals.

In selecting the delegation to the Conference at San Francisco, Prime Minister MacKenzie King was careful to select representatives from both sides of the House of Commons and the Senate. This selection, the Prime Minister believed, would assure support from the people for the work of the Conference. Twenty-three persons were selected to represent Canada, the Prime Minister himself acting as Chairman of the group. Included also in the delegation were the Hon. L. S. St. Laurent, Minister of Justice; Senator the Hon. J. H. King, Government leader in the Senate; Mr. Gordon Graydon, Leader of the Opposition in the House of Commons; and Mr. M. J. Caldwell, President and Parliamentary Leader of the Co-operative Commonwealth Federation.²

1. Canada, Department of External Affairs, Conference Series, 1945, No. 2, "Report on the United Nations Conference on International Organization", Ottawa, Kings Printer, 1945, p.8

2. Ibid, p.9

Prime Minister King, in addressing the second plenary meeting of the Conference on April 27th, 1945, presented the Canadian approach to the problems facing the Conference.

"The Canadian delegation comes to this Conference with one central purpose in view. That purpose is to co-operate as completely as we can with the delegations of other nations in bringing into being, as soon as possible, a Charter of world security." 1

With that, he went on to pay tribute to Franklin Roosevelt - a man whose loss was felt by "the whole freedom loving world." Referring again to the intentions of the Canadian delegation he said:-

"We shall not be guided by considerations of national pride or prestige and shall not seek to have changes made for reasons such as these.... The people of Canada are firm in their resolve to do whatever lies in their power to insure that the world will not be engulfed for a third time by a tidal wave of savagery and despotism..... Nations everywhere must unite to save and serve humanity." 2

The Conference agreed that its agenda would be the Dumbarton Oaks Proposals supplemented by the voting formula adopted at Yalta, as well as certain proposals submitted by China, and amendments submitted by any member of the Conference by May 4th.

The agenda was divided into twelve technical committees, Canada having representation on each of them. These Committees were on (1) Preamble, purposes and principles, (2) Membership, amendment and secretariat, (3) Structure and procedures of

1. Ibid, p. 10
2. Ibid, p. 11

the General Assembly, (4) political and security functions of the General Assembly, (5) economic and social co-operation, (6) trusteeship system, (7) structure and procedures of the Security Council, (8) pacific settlement of disputes, (9) enforcement arrangements, (10) regional arrangements, (11) the International Court of Justice, and (12) legal problems.

"United Nations" was suggested as the organization's name in honor of Franklin Roosevelt, who first used the term in the Declaration by the United Nations of January 1st, 1942.

The Dumbarton Oaks meeting had left to the San Francisco Conference the task of formulating a preamble to the Charter. In writing the preamble, the committee at San Francisco used as a draft one drawn up by Field Marshal Smuts of South Africa. The Preamble, in the final form, became an integral part of the Charter, affirming the faith of the peoples of the United Nations in the worth and dignity of the individual, as well as in the rules of law and justice among nations.

As for the purposes of the Organization, it was agreed by all that preventing war and maintaining security was of prime importance. But, along with that chief aim, the Organization should direct its efforts toward developing friendly relations between members, as well as to work for international co-operation in the economic and political spheres. Many of the delegations at San Francisco held that emphasis should be placed on the maintenance of peace through justice,

but to be permanent that justice must be fair. Hence the phrase "In conformity with the principles of justice and international law" was added to the first paragraph of Article I. The Canadian delegation, in full sympathy with this objective, voted in favor of the addition.

The principles contained in the Charter drawn-up at San Francisco were fundamentally the same as those proposed at Dumbarton Oaks. They are to be found in Article II of the Charter. It was only on the question of territorial integrity and political independence, and on the domestic jurisdiction, that there was any difference of opinion among the delegations. It was finally agreed that re-territorial integrity and political independence, force could be used to remove threats of peace and to suppress acts of aggression only under the authority of the Organization. New Zealand, in particular, had maintained that the obligation for collective action should be placed directly upon the individual members. Canada along with the United Kingdom and the United States stood in opposition to the New Zealand proposal.

As to the question of domestic jurisdiction, Canada, as well as the United States and the United Kingdom, supported an Australian amendment, which was later passed, limiting the right of the United Nations to intervene in the domestic jurisdiction of a state. As the Article was originally presented in the Dumbarton Oaks Proposals, it would have been

possible for an aggressor state to threaten or use force in a dispute of a domestic nature, in ^{the} hope that the Security Council might extort concessions from the state that was threatened. With the passage of the Australian amendment, it became clear that there could be no interference in the domestic economy or internal legislation of members.

It was Chapter II Of the Charter, that Chapter dealing with membership, which offered the first great stumbling block to the success of the Conference. Although it was agreed that states represented at the Conference should become members of the United Nations Organization, there was considerable controversy over the principles which should be followed in admitting new states into the Organization. Should membership be on the basis of universality, as certain Latin American Countries claimed, or should there be definite criteria for membership? It was agreed, finally, that any peace-loving state accepting the obligations contained in the Charter, and having secured an approving vote of two-thirds of the General Assembly and the recommendation of the Security Council with the concurring vote of the five permanent members, could become a member of the Organization. Canada was opposed to granting any of the "Big Five" the power to veto the admission of new members to the Organization, but was forced to accept the majority decision of the Conference.¹

1. Dept. of External Affairs Report on U.N.O. Conference, p. 20

With reference to suspension and expulsion or withdrawal of a member from the Organization, Canada agreed that the withdrawal of any member from the United Nations should be made as difficult as possible. She also favored suspension from rather than expulsion from the Organization as the most satisfactory disciplinary action to be taken against a member for persistent violation of the Charter. The decision of the Conference on these matters was:

(1) Any state had a right to withdraw from the Organization, but no mention of that right would be contained in the Charter, and -

(2) Provisions for both suspension and expulsion should be included in the Charter.

The broad outlines for a General Assembly, a Security Council, an International Court of Justice, and a Secretariat was listed in the Dumbarton Oaks Proposals. To these principal organs, the San Francisco Conference added an Economic and Social Council and a Trusteeship Council.

The Canadian delegation clearly defined its position in respect of the role of the General Assembly in an early meeting of the Committee on the political and security functions of the General Assembly. Canada maintained that the powers of the General Assembly should be as wide as possible; however, responsibility for settling disputes between states should not be included among its powers. That was the direct responsibility of the Security Council. Also, the General Assembly should not, of its own initiative have the authority to make recommendations on a matter being handled

by the Security Council. But, if the Security Council was unable to deal effectively with a dispute endangering the peace or security of the world because of the veto of one of the "Big Five", provision should be made for the General Assembly to take over the task of maintaining the security or peace of the world.¹ The Canadian stand was found to be acceptable to the Conference, and the principles were incorporated into the sections on the Charter relating to the General Assembly.

Closely linked with the General Assembly was the Security Council. One can hardly be discussed without the other. The Security Council was not a creature of the General Assembly, nor was it responsible to the General Assembly. It should not be considered as an executive committee of the General Assembly, but rather, as a coordinate body. Like the Assembly, all its powers stemmed directly from the Charter itself.

The debate on the Security Council revolved around three principal issues. The smaller states were dissatisfied with the voting formula adopted at Yalta, whereby any single Great Power was in a position to paralyze the activities of the Council by its veto privilege. Secondly, although the

1. Ibid, p. 23 - 24.

Organization was founded upon the basis of sovereign equality of all its members, the Great Powers, by virtue of their veto power, held a privileged position not shared by others in the Organization. Thirdly, it was held by certain of the smaller states that nations not ranking in status with the "Big Five", yet more influential than the smallest and weakest nations, should have a special position on the Security Council.¹

The Canadian delegation, in taking part in the debates on the Security Council, asked that any state not a member of the Council be given temporary membership on the Council with full voting rights whenever the subject under discussion affected that State. The Russian delegation balked at this request, maintaining that the Security Council would, on occasion, become in size unwieldy, and that it would restrict the Council's power of decision. In as much as the "Big Five" could not reach agreement over the Canadian suggestion, it was not adopted. Another suggestion by the Canadian delegation was accepted, in principle, however. The amendment provided that any member so desiring shall "Participate in the decisions" affecting the use of its own armed forces. There was no mention made of temporary membership on

1. Ibid, p. 28 - 29.

the Council. This addition in the Charter was satisfactory to Canada, for, although she did not demand that her troops be committed only with her consent, she did insist that she have a voice in the decisions which the troops were to execute.¹

Canada's main concern at San Francisco was to gain for herself a recognition in the Charter of the concept of a "Middle Power" state. Several other nations shared with Canada this concern, Australia being one of them. These nations had made considerable contribution to the strength of the United Nations and would be counted upon for similar aid in the future. Canada, recognized the disadvantages of attempting to write into the Charter too rigid a formula, and therefore suggested that the General Assembly make rules for the election of non-permanent members to the Security Council "in order to ensure that due weight be given to the contribution of members to the maintenance of international peace and security and the performance of their obligations to the United Nations."²

The "big Five" were, from the outset, ready to accept this principle, but when it came to be written into the Charter, there was also written into it a provision that due regard

1. The Round Table, September, 1945, "Canada at San Francisco," anon., p. 362-363.

2. Ibid, p. 363.

should also be paid to geographical location. The Canadian delegation was of the opinion that this sop to the "regional bloc" would have cancelled out the "due weight" given to members contributions. Under those circumstances, the rotation procedure that prevailed at Geneva during the life of the League would evolve. The Canadians would not regard this as satisfactory.

The delegation succeeded, at last, in having written into the Charter Article 23 which provides:-

" The General Assembly shall elect six other members of the United Nations to be non-permanent members of the Security Council due regard being specially paid, in the first instance to the contribution of members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution."¹

The Canadian delegation, for their own interpretation, took the words "in the first instance" to mean "primarily". Thus, they felt assured of membership on the Security Council oftener than would ordinarily be the case. They had also secured the right to sit in on Security Council discussions when their own forces were to be affected. Canada had hoped for more in the way of recognition of the "Middle Power" conception, yet the recognition she had received was enough to satisfy her.

1. Charter of the United Nations - Article 23.

Canada, like the other "middle Powers" and "Smaller Powers" had hoped to force some modification of the veto privileges of the "Big Five." but, recognizing the fact that the Russians would undoubtedly be quite unyielding on the point, the delegation reasoned that an organization with the Russians and the veto was better than an organization with neither. Hence, Canada resigned herself to the Yalta voting formula with its veto powers, believing that the passage of time might alleviate the suspicions of the Russians.¹

Most important to the success of the new organization was, undoubtedly, its enforcement actions. The main features of the enforcement provisions were, like most other aspects of the Charter, formulated in the Dumbarton Oaks Proposals. The primary responsibility for the maintenance of World peace and security was concentrated in the hands of the Security Council. It was that body which had to make the decision as to whether or not a threat to the peace, a breach of the peace, or an act of aggression had been committed. Once the decision had been made, with the affirmative vote of seven of its members, including the concurring votes of the permanent members, the Council was free to make recommendations to the parties of the dispute, and/or to impose sanctions. If recommendations and sanctions failed,

1. The Round Table, September, 1945, "Canada at San Francisco" p. 364.

the Council could require forcible action against a disturber of the peace.

The Canadian delegation took a positive stand in the discussions on enforcement actions. It had three objectives in mind:-

" It would not support efforts to weaken the provisions of Dumbarton Oaks; it would try to secure the inclusion of an effective provision under which the armed forces pledged in its military agreement by a state not a member of the Security Council could only be called out by the Security Council after that state had effectively taken part in the decision; and it would try to secure clarification of the provisions on the negotiation of special military agreements." 1

The second objective has already had some mention in the discussion of the Security Council, but it seems relevant to take further notice of it,

Obviously, the agreement for representation on the Security Council whenever a decision affecting a pledge of armed forces was involved, was the old argument of "no taxation without representation." That argument had a sound basis, and in that light, the Canadian delegation proposed an amendment making it possible for a member, not represented on the Security Council, to have a temporary seat on the Council whenever the question involving the use of the member's armed forces was under discussion. In speaking of this amendment before the committee on enforcement arrangements, Prime

1. Dept. of External Affairs, Report on U.N.O. Conference, p. 37.

Minister King said:-

"... the amendment which the Canadian delegation has proposed would not delay action, since it would only incorporate in the Charter itself, a step towards action which would probably have to be taken in any event. Unless this need for consultation is recognized in some manner in the Charter, the process of securing public support for the ratification of the Charter will be made considerably more difficult in a number of countries other than the Great Powers...."1

The Canadian amendment received general support from the "Middle Powers" and the "Small Powers", and, although not accepted completely, the Charter was revised to provide for participation "in the decisions of the Security Council concerning the employment of contingents of that member's armed forces." 2

As regards the clarification of the provisions on the negotiation of special military agreements, the delegation favored an Australian amendment providing that agreements be concluded "between the Security Council and members or groups of members", as against the plan outlined in the Dumbarton Oaks proposals which contemplated that members conclude agreements themselves to supply the Council with armed forces in order that the Security Council might impose military sanctions. The Australian amendment was accepted by the Conference, and written into the Charter as Article 43.

1. Ibid, p. 38.

2. Charter of the United Nations, Article 44.

The Dumbarton Oaks Proposals had minimized the role of the Economic and Social Council, and it was one of the aims of the Canadian delegation at the San Francisco Conference to increase the authority and position of that Council beyond the scope of studies, reports, and recommendations. With that aim in mind, they put forth five proposals to strengthen its position:-

- (1) to attain higher standards of living and economic and social progress and development (Article 55)
- (2) to promote co-operation between the members of the Organization to achieve the economic and social purposes of the Organization (Article 56.)
- (3) to authorize the Council to make intimate studies and reports on matters falling within its competence (Article 62).
- (4) to receive reports from members of the Organization on steps taken to give effect to the recommendations of the General Assembly on economics and social matters (Article 64.)
- (5) to give the Economic and Social Council authority to perform services at the request of members of the Organization (Article 66.)

These proposals were adopted by the Conference, but the scope of the activities of the Economic and Social Council was further extended to include cultural and educational co-operation, public health, human rights and fundamental freedoms.

Specialized inter-governmental agencies such as the International Labour Organization; the World Trade Union Congress, the International Postal Union etc., who would

likely be brought into relationship with the Organization, were to have their activities co-ordinated by the Economic and Social Council. The articles in the Charter dealing with the relationship of these inter-governmental agencies were proposed by the Canadian delegation and adopted by the Conference.¹ Thus, the Economic and Social Council became a fundamental and vital organ in the organization of the United Nations.

Dependent territories had not been included among the recommendations in the Dumbarton Oaks Proposals, and it was, therefore, left to the San Francisco Conference to dispose of the question. It was decided to have a Trusteeship Council included in the Organization, on a footing subordinate to the General Assembly. The membership formula for the Council was to be on the basis of one-half trustee states holding permanent seats, two or more states who did not administer trust territories but who were permanent members of the Security Council also holding permanent seats on the Trusteeship Council, and the remainder being elected for three year periods by the General Assembly. The number of non-trustee powers on the Council was to be equal to the number of trustee powers, but less than half of the members would be elected while more than half would hold permanent seats.

1. The Articles include, in the Charter, Nos. 57, 59, 63, 64, and 70.

The basis of representation assured permanent membership to the permanent members of the Security Council whether or not they were Trustee powers. The Canadian delegation opposed this principle of permanent members of the Security Council being, also, permanent members of the Trusteeship Council, but was forced to give-in to the majority favoring that principle.

Written into the Charter too, regarding dependent territories, were statements of the obligations of colonial powers. These obligations were :-

"first, to recognize that the interests of the inhabitants of all non self-governing territories are paramount; second, to promote the well-being of the inhabitants of these territories by methods specified in a comprehensive schedule; third, to see that dependencies are so administered as to contribute toward international peace and security; and fourth, to set up a United Nations Trusteeship system....to be applied to certain selected territories." 1

Because the Canadian Government was not directly responsible for the administration of colonial dependencies, the Canadian delegation at the Conference took no active part in the discussions relating to this aspect of the dependent territories question.

When the International Court came up for discussion, two ideas predominated. One group of nations favored establishing the Permanent Court of International Justice, originated

1. Dept. of External Affairs, Report on U.N.O. Conference
p. 49.

in 1920 under the Covenant of the League of Nations, as the judicial organ of the United Nations. Another group favored the establishment of a new Court. Both had points in their favor. After considerable discussion, however, it was decided that the creation of a new Court would best suit the requirements of the United Nations. But, because the old Permanent Court had established important legal precedents, the principle of the continuity of legal traditions was recognized in Article 92 of the Charter. It reads as follows:

" The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter." 1

United Nation members were not compelled to comply with the Courts findings, but they had to formally undertake to comply with decisions by the Court in any case to which they became a party. Should a state fail to honor this undertaking, the other party to the case could have recourse to the Security Council, which might or might not take action. The Court was empowered to give advisory opinions on any legal question, and although only the General Assembly and the Security Council were empowered to request advisory opinions, Specialized Intergovernmental Agencies brought into relationship with the United Nations could have access to the

1. Charter of the United Nations, Article 92.

advisory jurisdiction of the Court with the authorization of the General Assembly.¹ The Statute of the International Court of Justice was not included in the Charter of the United Nations, but functions in accordance with the provisions of its own statute. The Court consists of fifteen judges, no two of whom are nationals of the same state. A quorum of the Court consists of five judges. The system for nominating and electing judges was the same as the system used in the Old Court, and is laid down in Articles 3 - 7 of the Court's Statute.²

Canada took only a minor part in the discussions on the International Court of Justice, her only stand being that the new court should resemble as closely as possible the old Permanent Court of International Justice.

One of the most important bodies of the United Nations was the Secretariat. The space devoted to this body in the Charter covered only five articles, and of those five, the Canadian delegation was instrumental in securing the inclusion of two.³

The Civil Servants serving in the Secretariat are to be chosen on the basis of high standards of efficiency, competence, and integrity. They are not to be responsible to the

1. Charter of the United Nations - Articles 94 and 96.

2. Statute of the Court of International Justice, See: Dept. of External Affairs, Report on U.N.O. Conference, Appendix B, p. 122 - 134.

3. Charter of the United Nations Articles 100 - 101.

Government of the States of which they are citizens, but to the Organization itself. The head of the Secretariat is the Secretary-General, who is chosen for an unnamed term of years by the General Assembly with the consent of all the five permanent members of the Security Council.

In settling the matter of the Secretariat, the work of the Conference was almost finished. The questions of registration and publication of Treaties, of obligations by member states inconsistent with the Charter, of the privileges and immunities of the Organization, and of the relation of the Charter to internal law, were handled without difficulty. Now all that needed to be written into the Charter, before it was completed, was a chapter on amendments, and a chapter on the procedure for ratification and signature of the Charter.

On the question of amendments to the Charter, the delegation^s realized that the constitution should not be subject to frequent alteration, for on such a basis, the work of the United Nations would be ineffective. Yet, at the same time, the Constitution could not be too rigid - it must be capable of growth, and be capable of adapting itself to changing conditions. Realizing this, the Canadian delegation placed the following amendment before the Conference:-

"In the course of the tenth year from the date on which the Charter shall come into effect, a special conference of the United Nations shall be convened to consider the general revision of the Charter, in the light of the experience of its operation." 1

1. Dept. of External Affairs, Report on U.N.O. Conference
p. 66.

This amendment was found to be completely unacceptable to the Big Five powers, and in its place, Article 108 was written into the Charter. That Article provided that amendments to the Charter were to come into force whenever two-thirds of the members of the General Assembly and all the permanent members of the Security Council voted in favor of it.¹ Article 109 of the Charter made provisions for automatically placing on the agenda of the General Assembly, a proposal for calling a conference to revise the Charter.

Thus the work of the United Nations Conference on International Organization was completed on July 24th, 1945. The final chapter of the Charter providing that the Charter would come into force when it had been ratified by the five Great Powers, and by a majority of the other signatory states.

It came into force, officially, on October 24th, 1945, when the minimum number of required ratifications had been deposited in Washington, D. C.

3. The Charter Goes Before the Canadian Parliament.

On Tuesday, October 16th Mr. St. Laurent put the following motion for consideration before the House of Commons:

"that it is expedient that the Houses of Parliament do approve the agreement establishing the United Nations and constituting the Charter of the United

1. Charter of the United Nations - Article 108.

Nations and the Statute of the International Court of Justice signed at San Francisco on June 26th, 1945, and that this House do approve the same." 1

The debate which followed waged for two days before agreement on the Charter was reached. Generally, the House was in favor of approving the Charter, but one or two members held out. Mr. M. J. Caldwell, in speaking for the C.C.F. Party, asked for a unanimous vote of the House to adopt the resolution approving the Charter of the United Nations. In supporting the resolution he reminded the House that Canada was a nation of world-wide associations and interests. She could not stand aloof or remain unaffected by events in other parts of the world. To Canada, the maintenance of security and prevention of war was a vital concern. Although the Charter had defects, membership in the United Nations would give Canada a voice in influencing Conditions beyond her borders. The Organization would give the hope for closer understanding and co-operation among the states of the world, it offers the hope for the survival of humanity.²

Mr. Low of the Social Credit Party took a stand quite opposite to that taken by Mr. Caldwell. He very carefully made it clear that although the Charter pretended to affirm the equal rights of nations large and small, it did not in fact, do so. The Big Five Powers, with their power to veto

1. Canada, House of Commons Debates, 1945, p. 1247

2. Ibid, p. 1247 - 1252.

any decision of the Security Council to take action, placed themselves above the law. Membership in the Organization is to be open to all peace loving nations, but can one call Russia a peace loving nation?

"Apparently the Soviet Union is qualified as a peace-loving nation, and yet its neighbours to the West, Finland, the Balkan States and Poland have not had a very happy experience of Russia's peaceful intentions." 1

He went on to show that the general assembly of the Organization was virtually without power. The Organization is nothing more than the attempt of a few nations to rule the world.

With a defeatist attitude, Mr. Church, speaking for the Conservative Party, came out for approval of the Charter. He stated quite emphatically that he had never believed the Conference at San Francisco would be successful.

"I support the Charter, although that does not mean very much." 2

He then went on to argue for closer ties with the Commonwealth. Internationalism for Canada should start with Great Britain and the Empire. His concluding statement, a fair summary of all he said was:-

" I wish to support the Charter on the ground that it will do no harm to anyone, but it will not provide security against war...The only cure I know of for the future is to take our stand as members of the British Empire in peace and war alike. If we do that we shall soon find that the co-operation and coordination we have enjoyed with the United States and Russia in war will continue into the peace, so that we can look

1. Ibid, p. 1255.

2. Ibid, p. 1266.

to the future without fear." 1

What obligations would Canada assume if she ratified the Charter? That was the practical question which Mr. L. A. Beaudoin pondered. In examining the Charter he found that Canada had to negotiate an agreement with the Security Council that she had to make available to the Council, forces, assistance and facilities for the maintenance of peace and security. She must assume her share of the costs that participation in the operations ordered by the Council might entail. And, lastly, and most important, she must undertake, as the Security Council might decide, to carry out whatever the decisions of the Council. The obligations were great, but Mr. Beaudoin believed it was the solemn duty of Canada to approve the Charter and assume her obligations.²

Belittling the Charter was the approach taken by Mr. Jean-Francois Pouliot. He was ready to try the Organization but he had little faith in it. He resented the minor role Canada was given in the new Organization. Yes, Canada led the small nations at San Francisco - " a dwarf would lead other dwarfs."

The Minister of Justice, who moved the original motion, closed the debate. In doing so he asked all the member of the House :-

" to join with those who represented the Canadian

1. Ibid, p. 1270

2. Ibid, p. 1272 - 1276.

nation at San Francisco in saying that Canada is quite prepared to take whatever risk may be involved in joining this organization, because the other risk, that of not having an international organization, is something of such consequence that one dare hardly envisage it." 1

The Charter received the approval of both the House of Commons and the Senate, and the instrument of ratification was sent to His Majesty in London for signature. He signed it on November 1st, and the instrument was deposited with the government of the United States of America on the 9th November, 1945, by the Canadian Ambassador in Washington. Canada thus became an original member of the United Nations.

4. The United Nations meet in London.

The first session of the General Assembly of the United Nations was ^{convened} ~~conceived~~ in London on January 10th, 1946. The Canadian delegation headed by the Minister of Justice, Mr. St. Laurent, included also Agriculture Minister James Gardiner, Secretary of State Paul Martin, Hume Wrong, Assistant Under Secretary in the External Affairs Department and Vincent Massey, High Commissioner to the United Kingdom.²

Routine business occupied the major portion of the time in the Assembly's first session. The first business to be considered by the General Assembly was the election of the President of a session of the General Assembly. Mr. Gromyko of the Soviet Union delegation made the first nomination -

1. Ibid, p. 1332

2. Time magazine, January 14th, 1946, p. 15.

Mr. Lie, the Foreign Minister of Norway, Poland, the Ukrainian Soviet Socialist Republic, and Denmark supporting the nomination. No other candidate was recommended, but after the ballot was cast and counted, the results showed that Mr. Lie had received twenty-three votes as against twenty-eight for Mr. Spaak of Belgium. Mr. Spaak was therefore declared elected, and he took his seat as President of the Assembly.¹

The next important point on the agenda was the election of the six non-permanent members of the Security Council. It will be remember that according to Article 23 of the Charter, due consideration was to be given in the first instance, to the contribution of United Nations Members to the maintenance of international peace and security. Canada, with this point in mind hoped to be elected to the Council. However, before a ballot was cast, Mr. Manusky of the Ukrainian delegation suggested that the non-permanent Council members be chosen on an equitable geographical distribution. This suggestion, had the effect of overshadowing, in the minds of the delegates, the clause in Article 23 of the Charter providing that due regard, in the first instance, should be paid to the contribution of members to the maintenance of peace and security. When the votes had been cast and counted the following relevant results were

1. United Nations, Journal of the General Assembly, first session, Number 2, p. 26 - 28.

obtained:-

Brazil	Forty-seven votes.	
Egypt	Forty-fivs votes.	
Mexico	Forty-five votes.	
Poland	Thirty-nine votes.	
Netherlands	Thirty-seven votes.	
Canada	Thirty-three votes.	
Australia	Twenty-eight votes.	1

For election to the Council, a State had to receive a two-thirds majority vote - that is, thirty-four votes.

Therefore, Brazil, Egypt, Mexico, Poland, and the Netherlands were declared elected.

In as much as neither Canada nor Australia received a two-thirds majority vote, the Assembly cast a second vote, as directed in rule 74 of the provisional rules of procedure.

That rule provided:-

"If, when only one person or members is to be elected, no candidate obtains in the first ballot the majority required in rules 69 or 70, a second ballot shall be taken, confined to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, and a majority is required, the President shall decide between the candidates by drawing lots. When a two-thirds majority is required the balloting shall be continued until one candidate secures two-thirds of the votes cast." 2

The results of the second ballot again gave neither Canada nor Australia a two-thirds majority. The third balloting resulted in the same impasse. Thereupon, Mr. St. Laurent of Canada arose before the Assembly and very generously stated:-

1. Ibid, Number 4, p. 69.
2. Ibid, p. 70.

The members of the Canadian delegation fully realize how embarrassing it must be to their fellow delegates to go on balloting between two of the Dominions of the Commonwealth, with each of which they have always had such cordial and mutually satisfactory relations. I therefore beg leave, Mr. President, to propose that no further ballots be taken but that the election of Australia to the Security Council as the sixth non-permanent member thereof be made unanimous." 1

Mr. W. R. Hodgson of Australia thanked the Canadian delegation for their generous gesture. Thus, Australia became the sixth non-permanent member of the Security Council. Canada, by her action, although failing to gain a coveted and well-deserved seat on the Council, gained the admiration of the world.

Eighteen members were elected to the Economic and Social Council, ~~being included~~^{among} in which, ~~was Canada~~^{was} included.

Article 97 of the United Nations Charter provided that the Secretary-General, who is the Chief Administrative Officer of the Organization, should be appointed by the General Assembly upon the recommendation of the Security Council.²

The discussions of the Security Council on the question of who should be recommended for the post of the Secretary-General were held in a closed session. The United Nations Journal of the Security Council gives no account of the proceedings which took place. Newspaper reports revealed,

1. Ibid, p. 71.

2. Charter of the United Nations, Chapter XV, Art. 97.

however, that the United States delegation put forward the name of Lester B. Pearson, Canadian Ambassador to the United States, for the post. The Russians disliked the prospect of a North American filling the position, and countered with the names of two obscure eastern Europeans. After several days of manoeuvring, U. S. Delegate Edward R. Steilinius suggested Trygue Lie as a "compromise candidate". The Compromise Candidate was apparently acceptable to the Big Five and to the rest of the Security Council, for it issued a communique stating that:-

"it was unanimously agreed to recommend to the General Assembly the name of Mr. Trygue Lie, Foreign Minister of Norway, for the post of Secretary-General." 1

In the Assembly, only three votes were cast against Lie. With this almost unanimous vote of approval, he was instituted as the first Secretary-General of the United Nations. The "High Command" of the U.N.O. was thus completed - Belgium's Spaak, President of the General Assembly, Australia's Makin, President of the Security Council, and Norway's Lie, Secretary-General.

The first session of the United Nations was not concerned solely with routine business matters though. The problem of maintaining the peace of the world required consideration. Numerous situations in all parts of the world,

1. Journal of General Assembly, first session, No. 18, p. 355

called for attention. The real work of the Organization had just begun. At the United Nations first session in London, the Security Council heard Iran's charge against *The presence* of Russian Troops in Azerbaijan and Russia's counter charge against British Troops in Greece and Indonesia; it rejected the Albanian appeal for immediate admission to the United Nations, and it witnessed Russia's first use of the veto power to block a U. S. plan for withdrawing French and British troops from Syria and Lebanon.

The General Assembly chose Westchester - Fairfield as the permanent site for the Organization; rejected Russia's demand for forcible repatriation of refugees; elected Spaak as General Assembly president; and voted a twenty-two million dollar annual budget for the Secretariat.

The Economic and Social Council under the Presidency of Sir Ramoswami Mudaliar, called for a conference on International Health for June 20th.

The Military Staff Committee set up an executive in New York to begin work for a United Nations Police Force.

A special Commission created by the General Assembly, the Atomic Control Commission, was scheduled to meet in March for its first meeting.

The International Court of Justice received its first case, the British - Guatemalan dispute over British Honduras. This Court will hear the case in April in the Hague. Canada's John E. Read will sit as one of the judges.

The second session of the United Nations is scheduled to meet in New York, the Security Council meeting to be held about March 21st, and the General Assembly's on about the 3rd of September. .

What the outcome of the second meeting will be, no-one can now predict. The problems facing the United Nations are tremendous. Will the Organization be able to maintain the security and peace of the world? That question is in the mind of every peace loving nation and individual. What contribution can Canada make? What will be Canada's future role in the family of nations?

CONCLUSIONS

CONCLUSIONS

Canada, since Confederation in 1867, has gradually increased her control over domestic and foreign policy, until today only a few vestiges of Imperial authority remain. International recognition of her autonomy was achieved when she was granted separate representation and signature at the Paris Peace Conference and when she gained individual membership in the League of Nations. The Statute of Westminster, 1931, gave formal legal recognition from Great Britain of Canada's independent status. True, certain Imperial ties were left to insure the continuation of the British Commonwealth of Nations. George VI is still, theoretically, King of Canada, and will remain so. The British Parliament is still the only authority competent to amend the Canadian Constitution, but this restriction on autonomy was retained at the request of the Canadian Government. In civil lawsuits, Great Britain's Privy Council is yet Canada's court of final appeal. Parliamentary action to sever that bond is now in process.

Canada has felt a new and vibrant awareness of national identity, and of her power and prestige in the world. She is eagerly anticipating the adoption of a distinctive Canadian flag and a distinctive Canadian citizenship.

Let it not be said that the world is unaware of the "New Canada", for Canada has become one of the three great trading nations in the world. With a population of only

twelve million, she became, at the war's end, the fourth most potent fighting power among the United Nations, and had the third largest and strongest Navy. She has turned from a debtor nation to a creditor nation. She, along with the United States and Great Britain, holds the secret to the atomic bomb. This fact alone places Canada in a top place in the councils of the world.

My purpose in this study has been to present, objectively, the role played by Canada in the now defunct League of Nations, and her part in the newly organized United Nations. Until now no attempt has been made to evaluate, subjectively, the Canadian roles in those two international peace organizations. It is the purpose of these conclusions to draw the strings together - to point out the reasons behind Canada's policies and to evaluate the results of those policies.

When Canada entered the League of Nations she did so with the understanding that she was willing to co-operate with the other nations of the world for the promotion by peaceful means of all international methods having for their object the peace of the world. This did not mean, Canada maintained, that the Parliament of Canada would surrender its freedom of decision.

Articles X and XVI of the League Covenant were not compatible with Canadian policy, and throughout the history of the League, Canada worked for their elimination. She was in constant fear that, under the obligations imposed upon her by

Article X, she might become involved in a European war against her will, or that under Article XVI, circumstances might arise necessitating belligerent action on the part of Canada against the United States. Either situation would be repugnant to Canadian political philosophy. Thus, it is understandable that whenever the principle of sanctions appeared - in the Assembly Resolution XIV, the Draft Treaty of Mutual Assistance, the Geneva Protocol, or the Locarno Pact - Canada refused to acquiesce.

When, on September 29th, 1936, the Canadian Prime Minister spoke before the League Assembly, he declared that:-

"Canada had no absolute commitments to apply military or even economic sanctions against an aggressor named by the League." 1

Canada was not the only country holding fast to such a policy. Except for France and the countries created by the Treaty of Versailles, most other League Members stood in the same position in regards^{to} sanctions and indefinite obligations as did Canada.

Canadian foreign policy based on the statements and actions of Mr. MacKenzie King, as analyzed by Mr. Escott Reid in 1937 included:-

1. Price, Vincent, "Canada and the World Security." A series of pamphlets entitled, Canada must choose, Toronto, Ryerson, 1945, p.24.

- (1) Maintenance of the unity of Canada as a Nation.
- (2) Priority of British and American relations over League Relations.
- (3) Non-intervention in European and Asiatic affairs
- (4) Freedom from any obligation to participate in military sanctions of the League or defense of the Commonwealth
- (5) Freedom from any obligation to participate in economic sanctions
- (6) Necessity for obtaining Parliamentary approval for participation in military sanctions, or war.
- (7) Willingness to participate in international inquiries into economic grievances. 1

The words "freedom from any obligation" did not mean, necessarily, the "absence of intention" to support League policies. Canada was on guard always to protect her newly won autonomy. And, to maintain that autonomy, she could not permit the freedom of decision to pass from the hands of her Parliament, nor could she allow her cultural, historical, and political ~~of~~ affiliations with the British Commonwealth of Nations and the United States to be alienated. When the final test on Canadian policy did come - war with the Axis powers, Canada did not hesitate or waver. She committed herself wholeheartedly to the fight for the freedom of the world.

Behind the Canadian policy in the League were certain political and geographical considerations peculiar to herself only.

Canada, from the beginning of her history, has had close ties with the United States. Although at times situations have arisen between the two countries which were not always

1. Reid, Escott, "Canada and the Threat of War", University of Toronto Quarterly, January, 1937. p. 242-253.

conducive to the most cordial relations, those differences were always settled without resort to war. Over the years, effective international machinery for the solution of the consequences of the interlocked destinies of Canada and the United States has been devised. The boundary between them has been unfortified since Canadian Confederation. Canadians and ~~the~~ Americans cross and recross the border unhindered, and cordial relations exist between the peoples of the two countries and between the Governments of the two countries. It would be unthinkable for a Government in Ottawa to ignore the attitude of Washington in a decision having international consequences. The two countries are as one. Their destinies are interlocked.¹

And so it is with the British Commonwealth of Nations and Canada too. Although Canada is proud and jealous of her independent status, she, nevertheless, would not consider disassociating herself from the Commonwealth. The sentimental ties with it are stronger than the political bonds. And, although Canada will not allow herself to be obligated by the Commonwealth, there can be little doubt as to the role she would take in an issue involving the Commonwealth.

When the question of joining the League of Nations came before the Canadian Parliament, some argued that Canada should abstain from membership in the League as long as the United

1. For a complete analysis of the interplay of Canadian, American, and British policies, as well as the influence of those policies on each other, read:

(cont. on next page.)

States stood outside. This contention was overridden because Canada wanted international recognition and because she wanted to maintain the Imperial Unity of the Commonwealth. But, though she entered the League, her policy in it was always influenced by the fact that the Americans stayed out. Canada did not want, in any way, to come into conflict with the United States through some action of the League. Thus, few steps were taken without regard for their effect on American public opinion.

On the home front, the political scene has always been divided into numerous large and diverse groups; the French-Canadians, the Imperialists, English-speaking Canada^s, the Liberals, the Conservatives, the C.C.F., and the Communists. By constantly stressing Canada's freedom of action in international affairs, and by stressing the point that only Parliament can decide on participation in foreign wars, Canadian Governments have been able, to a great extent, to satisfy most of these groups. A positive policy, reflected in the League, would have precipitated political disunity. Assuming obligations to any great extent, especially if those obligations were greater than the United States accepted, would have been a policy difficult to defend before the Canadian electorate.

Footnote continued from previous page:

Brebner, John Bartlet, "North Atlantic Triangle" the interplay of Canada, the United States and Great Britain, Toronto, Ryerson, 1945.

French Canada, comprising thirty percent of the population, is jealous of its rights as a minority. It opposed any extension of Canada's commitments to the Commonwealth and to the League.

The religious allegiances of the population have always merited consideration from Canadian Governments. Forty percent of the population is Catholic and, during the Italo-Ethiopian conflict, Catholic French Canadian opinion was isolationist or pro-Italian in contrast to the pro-League attitude of English-speaking Canada. In the Spanish Civil War, Quebec sympathized with General Franco.

Geography played its part in influencing Canada's policy in the League also. Canada, situated as she is between oceans on the East and West, with the Arctic ice-barrier to the North, and a friendly, non-aggressive United States to the South, could, at Geneva, coyly point to herself as a perfect example of a nation without fear of aggression and without aggressive designs on others. Why should she be concerned with sanctions?

Indeed, the chief criticism that can be leveled against Canadian policy in the League of Nations is that it was prevailing negative in character.

When war loomed on the horizon in 1939, the Canadian public awakened to its responsibilities. However, it was too late to avert war for the League was already dead. Canada, therefore, accepted her share in the struggle which ensued.

It is difficult to analyze the reasoning behind Canada's decision to enter the war. The principle of Imperial unity and sympathy for Great Britain accounted, partially at least, for it. But the fact that the Axis Powers were trying to enslave the world with an ideology foreign and repugnant to democratic principles was one of the underlying factors in the decision. Canada could not sit idly by and watch the destruction of all she stood for.

After more than five years of war, victory for the United Nations came into sight. The task of preparing for the peace lay yet ahead. And again Canada was ready. She assumed responsibilities in the United Nations Relief and Rehabilitation Association, in the Bretton Woods Monetary Agreement, and in the United Nations.

The problem of "recognition" is no longer a concern of Canada. Her independent status has been won and acknowledged. The question now is what Canadian interests are involved? What contributions can Canada make in the international community?

World markets are necessary for prosperity in Canada. Economically, her position is vulnerable. A general confidence among all nations, thus promoting multilateral trade on a free basis, is necessary to a well-rounded Canadian economy.

In the realm of security, the picture has changed drastically in the past ten years. Once it was possible for Canada to be complacent about security, protected as she was

from distant areas of international conflict by the British Navy, and living next-door to the United States, whose Monroe Doctrine would be extended to cover her in any threat of danger. The situation is different now. The increasing range of attack from the air has brought Canada within a few flying hours of Europe and Asia. The Arctic ice-barrier on the top of the world has become merely a link between Russia and the United States in the circle air routes. The atom bomb has drastically reduced the protective effectiveness of armies and navies. Neutrality for Canada in another war would be out of the question. The world has suddenly grown small. In discussing Canada's future, account must now be taken of her vulnerability in terms of security as well as in terms of economics.

The United Nations has been established in the hope that future wars might be averted. The Organization is based on the principle of power for peace; an idea vastly different from the basis of the League of Nations, which hoped to maintain peace through a collective moral outlawing of war. The United Nations has the power at hand to enforce its decisions. Though the procedure to be used in applying that power has not yet been devised, a military council is now working at the details. The League of Nations had no armed forces at its disposal and no power to act to stop aggression or threatened war.

Force, in the United Nations, is in the hands of the

Security Council, or more correctly, the "Big Five" members of the Security Council. All hope for success for the Organization depends on the continued co-operation of the "Big Five" for they are the ones who must be in complete agreement before any positive action can be taken when the peace of the world is threatened. Their use of the veto power can make or break the United Nations. To speculate at this time on the chances for success of the Organization is not the purpose of these conclusions.

However, if the United Nations succeed in establishing world security, the Security Council will become inactive. Its work will be done. There will be no place for power and force. National sovereignties will be replaced by world government. Non-political questions will continue to present problems though; problems of trade and commerce, communications, minorities, social welfare, etc. Canada's role will be difficult, for she is so intimately and inter-dependently associated with Great Britain and the United States. Though she will be able to take an active part in the work of the Organization, she will have to take into consideration American and British public opinion. Should the United States, in its trade policy, try to invade British markets, the United Kingdom might suggest the revival of the Ottawa Agreements for the Commonwealth. Canada would thus be placed in a critical position. Her decision would have untold effects. Undoubtedly, her course of action would be to steer Britain and the

United States into an understanding. Yes, if the United Nations is successful, Canada's role will be a prominent one.

If, on the other hand, the Organization fails; if the veto emasculates the Security Council, and power continues to be the basis for an unstable and uncertain peace, Canada's role will be equally difficult. The United Kingdom can not for long hold the place of a great power without the Dominions and India. Britain and the United States, among the "Big Five" symbolize our way of life. For Canada to draw herself into a shell - to leave the Commonwealth, and to ignore the United States, would mean the fall of Britain from a place of importance in world affairs. The United States, alone, would be left to balance the scales. She, without Britain, could not force a peaceful solution on a major issue. If peace is to be maintained on the basis of a balance of power, Canada is an important factor in making the delicate scale balance. To the United States she is important for the defense of the continent; to the United Kingdom she is essential for Imperial defence. It is she who would provide training grounds and war material in any future conflict.

Until the future of the United Nations has been determined, Canada can best play her part with a distinctive Canadian policy of constructive, independent action in close co-operation with the British Commonwealth of Nations and the United States, as well as with the rest of the nations of the world, large and small. The success of the United Nations will depend upon close co-operation and understanding with all nations.

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