

January 7th, 1932. Mr. Stimson
proceeded to announce what has
since been known as the "Hoover
Stimson Doctrine", to the effect
that the U.S.A. would not recognise
any situation brought about
by force to the East of Paris 1918.
The British Govt. had declined.

INTRODUCTION

BY THE RT. HON. THE EARL OF LYTTON,
G.C.S.I., G.C.I.E.

I AM told that the Summary of the Report of the Commission of Enquiry, over which I had the honour to preside, has been much in demand, and that the stock has now been exhausted. In reprinting it I have thought it well to bring the story up to date by including, in addition to the original Summary, the following documents:

1. A Summary of the Draft Report of the Committee of Nineteen made under paragraph 4 of Article 15 of the Covenant, and unanimously adopted by the Assembly on February 24th, 1933.
2. The Resolution subsequently passed by the Assembly on the same day.
3. The separate Report made by the Japanese Government, under paragraph 5 of Article 15, and issued on February 25th.

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The position at the end of February was that the League had unanimously adopted the findings of its Commission of Enquiry as regards the facts of the dispute, and had set up a new Committee of twenty-one to "follow the situation" and "to aid the members of the League in concerting their action." Japan had refused to accept the decision of the League, and had withdrawn from further co-operation with it in the settlement of the dispute. Immediately following the adoption of the Resolution by the Assembly the Japanese army invaded Jehol, and in little more than a week added another territory the size of England and Wales to those already forcibly severed from China, in violation of three international Treaties. This was the sixth occasion since the original outbreak in September, 1931, in which the attitude of the Japanese delegate at Geneva was discounted by the action of the Japanese army in Manchuria.

1. On September 19th, at the first Meeting of the Council at Geneva, when the news of the events of the previous night had been received, Mr. Yoshizawa said that his Government "had taken all possible steps to prevent this local incident from leading to undesirable consequences." While this was being said in Geneva the army in Manchuria was extending the local incident

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at Mukden to places as far removed as Autung, Yinkow, Changchun and Kirin.

2. On September 25th the Japanese Government informed the Council by telegram that "it had withdrawn the greater part of its troops within the railway zone, where they were concentrated," and added that "they felt confident that the Council would, in this matter, trust the sincerity of its attitude."

On September 28th Mr. Yoshizawa informed the Council that "the withdrawal of the Japanese troops was proceeding," and expressed the hope "that his Government would be enabled to carry out its intentions in full and as rapidly as possible." He added that "there never has been, and never will be, any question of the military occupation of Manchuria."

On September 30th the Council passed a Resolution, which was accepted by the Japanese representative, noting the assurances given by both parties "that they will take all necessary steps" to prevent any extension of the scope of the "incident or any aggravation of the incident."

On October 8th the Japanese army was bombing the town of Chinchow, and in November they had advanced into Northern Manchuria and captured Tsitsihar, the capital town of Heilungkiang province.

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3. On December 10th, when the Resolution appointing the Commission of Enquiry was passed by the Council, the Resolution of September 30th was re-affirmed, with the consent of the Japanese representative. On December 23rd the Japanese army attacked the town of Chinchow, which they captured on January 3rd. In February the area of conflict was extended to Harbin.

4. The Council met to discuss the Report of the Commission of Enquiry on November 21st, 1932. On December 4th the Japanese army occupied Hailar and Manchuli on December 6th.

5. On December 6th the Special Assembly met to discuss the Report of the Commission, and on December 8th the Japanese army attacked Shanhaikwan, which they captured on January 3rd, 1933.

6. The Japanese statement of February 25th, 1933, repeated "the disclaimer of all desire for territorial gains or commercial advantages," and a few weeks later the province of Jehol was occupied by the Japanese army.

Thus within seventeen months, while the League of Nations was striving to effect a settlement of the conflict, the military occupation of the whole of Manchuria, of which the Japanese delegate had assured the Council there never had been, and never

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would be, any question was made complete, and was even extended to a province of Eastern Mongolia as well.

The effect of the Report of the League adopted by the Assembly on February 24th was to settle definitely the issue of facts. The right or wrong of the action of the Japanese army in Manchuria is no longer a debatable question. China has been declared the victim of aggression by the unanimous vote of the Assembly of the League. It is important, however, in all statements or action which may be based on this finding, to distinguish between the rights and interests of Japan in Manchuria and the wrongful action of the Japanese army. The action of the army may be condemned, and the approval given to it by the Japanese Government may be revoked, but the permanent needs of Japan remain and must not be ignored, if peace is to be restored.

Throughout the discussions which have taken place at Geneva, the arguments used by the representatives of Japan have been irrelevant to the issue which was under discussion. The Japanese speeches have all dwelt upon the chaotic condition of China, upon the provocative nature of the anti-foreign propaganda of the Chinese Government, or the faults of the Chinese administration in Manchuria; but beyond the bare

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assertion that everything that Japan has said is true and everything that Japan has done is right, there has been no attempt to answer the charge that whatever the grievances of Japan might have been they did not justify the occupation by force of Chinese territory. That is why the efforts to arrive at an agreed basis for the starting-point of the negotiations were doomed to failure from the outset. The parties were never discussing the same issue.

But now that the issue of facts has been settled, arguments that were previously irrelevant become relevant. The action taken by the Japanese army has been condemned, the methods employed by Japan for settling her outstanding grievances, or securing her interests, cannot be condoned, but the problem of finding an alternative method of settling these matters in conformity with existing international Treaties still remains, and this is at once the most important and the most difficult part of the task which the League has to perform. The spokesmen of Japan and other critics of the League have talked about fictions—the fiction of China's claim to be a civilised State, the fiction of her title to be a member of the League of Nations, and the fiction of her sovereignty of Manchuria. But there are other fictions which have now been

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~~Finally disposed of—the fiction of a Chinese offensive on the night of September 18th, 1931, the fiction of Japanese defensive measures, the fiction of "Manchukuo." A settlement which was founded upon any fictions would be no settlement, and the League was obliged to establish a foundation of truth on which to base its constructive work for peace.~~

~~The present weakness of China, even without the Japanese exaggeration of it, is a reality. This reality was not ignored at Washington in 1932, it was not ignored in the Report of the Commission of Enquiry, and it must be taken into account by the League of Nations in any settlement it may propose for the present conflict. The interests of Japan in Manchuria, her leased territory and her two leased railways in the South, her industrial enterprises, the capital she had invested in the country, her Treaty rights and her strategic interests—these too~~
* ~~are realities which have not been forfeited by the wrongful actions of her troops, and they must be effectively safeguarded by any administration which is established in Manchuria. In the opinion of the Commission of Enquiry the present weakness of China was not an insuperable barrier to the establishment of an effective administration in Manchuria, and the maintenance of the~~

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fictitious features of the present administration was not necessary for the safeguarding of the legitimate interests of Japan. On the contrary, we considered that the help of the League in providing a good Government in her three Eastern Provinces was the first step towards helping China to complete her work of reconstruction in the whole of her dominions. Having decided in no uncertain terms that the present conditions are without the sanction of law and justice, and cannot therefore be made the foundation of peace; having also decided that a mere return to the *de facto* situation prior to September, 1931 would be insufficient to secure peace, the League must now define the conditions which would be both consistent with the *de jure* position of China and the requirements of a durable peace.

The withdrawal of the Japanese delegation from Geneva has undoubtedly made this task more difficult, but it need not prevent substantial progress from being made. The immediate function of the Committee of Twenty-one is to examine, with the help of the Chinese representatives, the suggestions contained in Chapter X of the Report of the Commission of Enquiry, and to decide what practical solution it can recommend to the League in the actual circumstances of the moment. When the constructive proposals

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of the League have received the same measure of world approval as its verdict on the merits of the conflict, it will be easier for the Council to recommend the concerted action necessary to make its Report effective.

The documents which are summarised in this pamphlet should be sufficient to inform its readers of the developments up to date of this complicated problem, and of the factors necessary for its solution. The summary of the Report of the Commission of Enquiry has been reproduced because, although its findings as regards the facts of the conflict, and its statement of the principles which appeared to the Commission to be fundamental in any solution of it, have since been adopted by the League, yet the concrete suggestions of the Commission for a solution have not yet been considered. A summary of the Report of the League has been added, in order to show what portions of the Commission's Report have been adopted and what portions have not. This Report also contains a valuable narrative of the proceedings at Geneva, which were not dealt with by the Commission. Finally, the Statement of the Japanese Government has been reproduced, in order to show the actual points of divergence between that Government and the rest of the world.

II

SUMMARY

OF
THE REPORT OF THE
COMMISSION OF ENQUIRY

By the RT. HON. THE EARL OF LYTTON,
G.C.S.I., G.C.I.E.

The Report, which was signed without reservations by all the Commissioners, consists of an Introduction and ten chapters.

The Introduction summarises the itinerary of the Commission, and explains that its mission has been based throughout on the Resolution of the Council of December 10th, by which it was constituted. Responsibility for past actions has been less insisted on in the Report than the necessity of finding means to avoid their repetition in the future.

An historical background to the present dispute is provided in Chapters I, II and III.

CHAPTER I gives a condensed outline of the political conditions of China since the Revolution of 1911, and touches on banditry and communism. On the Japanese contention that China "is not an organised State," and because of its anarchical conditions should be deprived of the protective clauses of the Covenant, the Commission points out

R that a quite different view was taken at the time of the Washington Conference, when the disorganised condition of China at that time was the very ground on which the Nine Powers agreed not to seek national advantages at her expense. The chapter concludes as follows:

"This issue, however, though affecting Japan to a greater extent than other Powers, is not a Sino-Japanese issue alone. China demands immediately the surrender of certain exceptional powers and privileges, because they are felt to be derogatory to her national dignity and sovereignty. The foreign Powers have hesitated to meet these wishes as long as conditions in China did not ensure adequate protection of their nationals, whose interests depend on the security afforded by the enjoyment of special treaty rights. The process of fermentation, inevitable in a period of transition, which this chapter has attempted to describe, has developed forces of public opinion which will probably continue to embarrass the Central Government in the conduct of their foreign policy as long as they are weakened by failure to complete the unification and reconstruction of the country. The realisation of China's national aspirations in the field of foreign relations depends on her ability to discharge the functions of a modern government in the sphere of domestic affairs, and until the discrepancy between these two has been removed the danger of international friction and of incidents, boycotts and armed interventions will continue.

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Chapter II

"The present extreme case of international friction having forced China once more to seek the intervention of the League of Nations, should, if a satisfactory settlement can be effected, convince her of the advantages of the policy of international co-operation which was inaugurated at Washington with such beneficial results in 1922. China has not at the moment the capital nor the trained specialists necessary for the unaided accomplishment of her national reconstruction. Dr. Sun Yat-sen himself realised this, and actually drew up an ambitious plan of international participation in the economic development of his country. The National Government, too, has in recent years sought and accepted international help in the solution of her problems: in financial matters since 1930; in matters relating to economic planning and development; in liaison with the technical organisations of the League of Nations, since the constitution of the National Economic Council in 1931; and in the relief of the distress caused by the great flood of the same year. Along this road of international co-operation China would make the surest and most rapid progress towards the attainment of her national ideals, and such a policy would make it easier for foreign Powers to give what support the Central Government may seek, and to help in the removal as rapidly and as effectively as possible of any causes of friction which may endanger her peaceful relations with the rest of the world."

CHAPTER II summarises the history of Manchuria and shows how it has been the

See Willingby - Chairman
The Washington Conference
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meeting ground of the conflicting needs and policies of China, Russia and Japan. While Russia and Japan were engaged in delimiting their respective spheres of interest in Manchuria in the years which followed the Russo-Japanese war, millions of Chinese farmers from Shantung and Hopei Provinces settled there and took possession of the soil, so that Manchuria is to-day unalterably Chinese. As large as France and Germany combined, it has a population of 20,000,000, of which 28,000,000 are Chinese, the Koreans numbering 800,000 and the Japanese 230,000.

Since the Revolution, Manchuria has had a more or less autonomous position, first under Marshal Chang Tso-lin and, since his death in 1928, under his son, Marshal Chang Hsueh-liang. The chapter deals with the relations of these two men with the Chinese, Russian and Japanese Governments respectively.

"The independence declared by Marshal Chang Tso-lin at different times never meant that he or the people of Manchuria wished to be separated from China. His armies did not invade China as if it were a foreign country, but merely as participants in the civil war. Through all its wars and periods of 'independence,' therefore, Manchuria remained an integral part of China." After explaining how Chang Hsueh-liang, the young Marshal, united Manchuria with Nationalist China,

Chapter III

the report says: "During the period preceding the conflict between China and Japan, both the political and economic ties between Manchuria and the rest of China were gradually strengthened. This growing interdependence contributed to induce Chinese leaders, both in Manchuria and in Nanking, to pursue an increasingly nationalist policy directed against the interests and rights acquired by Russia or Japan."

CHAPTER III deals with Japanese interests in Manchuria and with the more important specific issues between China and Japan in the Three Eastern Provinces prior to September 1931—railway disputes, the massacre of Chinese in Korea following the Wanpao-shan affair, the treatment of Koreans in Manchuria, and the Nakamura case. The final comment of the Commission is as follows:

"By the end of August, 1931, therefore, Sino-Japanese relations over Manchuria were severely strained in consequence of the many controversies and incidents described in this chapter. The claim that there were three hundred cases outstanding between the two countries, and that peaceful methods for settling each of them had been progressively exhausted by one of the parties cannot be substantiated. These so-called 'cases' were rather situations arising out of broader issues, which were rooted in fundamentally irreconcilable policies. Each side accuses the other of having violated, unilaterally interpreted, or

ignored the stipulations of the Sino-Japanese agreements. Each side had legitimate grievances against the other.

"The account here given of the efforts made by one side or the other to secure a settlement of these questions at issue between them shows that some efforts were being made to dispose of these questions by the normal procedure of diplomatic negotiation and peaceful means, and these means had not yet been exhausted. But the long delays put a severe strain on the patience of the Japanese. Army circles in particular were insisting on the immediate settlement of the Nakamura case and demanded satisfactory reparation. The Imperial Ex-Soldiers' Association, amongst others, was instrumental in rousing public opinion.

"In the course of September, public sentiment regarding the Chinese questions, with the Nakamura case as the focal point, became very strong. Time and again the opinion was expressed that the policy of leaving so many issues in Manchuria unsettled had caused the Chinese authorities to make light of Japan. Settlement of all pending issues, if necessary by force, became a popular slogan. Reference was freely made in the press to a decision to resort to armed force, to conferences between the Ministry of War, the General Staff, and other authorities for the discussion of a plan with this object, to definite instructions regarding the execution, in case of necessity, of that plan to the Commander-in-Chief of the Kwantung Army and to Colonel Doihara, Resident Officer at Mukden, who had been summoned to Tokyo early in September, and

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Chapter IV

who was quoted by the press as the advocate of a solution of all pending issues, if necessary by force, and as soon as possible. The reports of the press regarding the sentiments expressed by these circles and some other groups point to a growing and dangerous tension."

CHAPTER IV deals with the events of September 18th-19th, 1931, which were the immediate cause of the present dispute. Both the Chinese and the Japanese versions of these events are given in full, and the Commission expresses its own opinion as follows:

"Appreciating the tense situation and high feeling which had preceded this incident, and realising the discrepancies which are bound to occur in accounts of interested persons, especially with regard to an event which took place at night, we, during our stay in the Far East, interviewed as many as possible of the representative foreigners who had been in Mukden at the time of the occurrences or soon after, including newspaper correspondents and other persons who had visited the scene of conflict shortly after the event, and to whom the first official Japanese account had been given. After a thorough consideration of such opinions, as well as of the accounts of the interested parties, and after a mature study of the considerable quantity of written material and a careful weighing of the great mass of evidence which was presented or collected, the Commission has come to the following conclusions:

"Tense feeling undoubtedly existed between the Japanese and Chinese military forces. The Japanese, as was explained to the Commission in evidence, had a carefully prepared plan to meet the case of possible hostilities between themselves and the Chinese. On the night of September 18th-19th this plan was put into operation with swiftness and precision. The Chinese, in accordance with the instructions referred to on page 189, had no plan of attacking the Japanese troops or of endangering the lives or property of Japanese nationals at this particular time or place. They made no concerted or authorised attack on the Japanese forces, and were surprised by the Japanese attack and subsequent operations. An explosion undoubtedly occurred on or near the railroad between 10.00 and 10.30 p.m. on September 18th, but the damage, if any, to the railroad did not in fact prevent the punctual arrival of the south-bound train from Changchun, and was not in itself sufficient to justify military action. The military operations of the Japanese troops during this night, which have been described above, cannot be regarded as measures of legitimate self-defence. In saying this the Commission does not exclude the hypothesis that the officers on the spot may have thought they were acting in self-defence."

The chapter concludes with an account of the subsequent military operations of the Japanese troops in Manchuria, the bombing of Chinchow on October 8th, the Nonni Bridge operations ending with the occupation

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Chapter V

of Tsitsihar on November 19th; the Tientsin incidents of November 8th-26th; the occupation of Chinchow on January 3rd, and of Harbin on February 4th.

CHAPTER V deals with the operations at Shanghai. As the fighting in this area has been described in the report of the Consular Committee appointed by the League, and as the Commission was not instructed to investigate the Shanghai affair, they make no comment upon it, but confine themselves to completing the story of the operations from February 20th until the final withdrawal of the Japanese troops. This chapter also contains an account of the incident of Nanking on February 1st, 1932.

* CHAPTER VI describes the formation of the so-called "State of Manchukuo," and is divided into three parts.

Part I describes the stages in the formation of the new "State," and concludes with the following comment by the Commission:

↪ "Since September 18th, 1931, the activities of the Japanese military authorities, in civil as well as in military matters, were marked by essentially political considerations. The progressive military occupation of the Three Eastern Provinces removed in succession from the control of the Chinese authorities the towns

of Tsitsihar, Chinchow and Harbin, finally all the important towns of Manchuria; and following each occupation the civil administration was reorganised. It is clear that the Independence Movement which had never been heard of in Manchuria before September 1931, was only made possible by the presence of the Japanese troops.

"A group of Japanese civil and military officials, both active and retired, who were in close touch with the new political movement in Japan to which reference was made in Chapter IV, conceived, organised and carried through this movement, as a solution to the situation in Manchuria as it existed after the events of September 18th.

"With this object, they made use of the names and actions of certain Chinese individuals, and took advantage of certain minorities among the inhabitants who had grievances against the former administration.

"It is also clear that the Japanese General Staff realised from the start, or at least in a short time, the use which could be made of such an autonomy movement. In consequence they provided assistance and gave direction to the organisers of the movement.

R "The evidence received from all sources has satisfied the Commission that while there were a number of factors which contributed to the creation of 'Manchukuo' the two which, in combination, were most effective and without which, in our judgment, the new State could not have been formed, were the presence of Japanese troops and the activities of Japanese officials, both civil and military.

* "For this reason the present regime cannot

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be considered to have been called into existence by a genuine and spontaneous independence movement."

Part II describes the organisation of the existing "Manchukuo Government," and the seizure of the Salt Gabelle, postal and Customs revenues. The Commission makes the following comments:

"Having thus described the organisation of the 'Manchukuo Government,' its programme, and some of the measures it has taken to affirm its independence from China, we must state our conclusions regarding its operations and its principal characteristics.

"The programme of this 'Government' contains a number of liberal reforms, the application of which would be desirable not only in Manchuria but in the rest of China; in fact, many of these reforms figure equally in the programme of the Chinese Government. In their interviews with the Commission, the representatives of this 'Government' claimed that with the help of the Japanese they would be able to establish peace and order within a reasonable time, and would thereafter be able to maintain it permanently. They expressed the belief that they would be able to secure the support of the people in time by assuring them an honest and efficient administration, security from bandit raids, lower taxation as the result of reduced military expenditure, currency reform, improved communications and popular political representation.

"But, after making every allowance for the short time which has hitherto been at the disposal of the 'Manchukuo Government' for carrying out its policy, and after paying due regard to the steps already taken, there is no indication that this 'Government' will in fact be able to carry out many of its reforms. To mention but one example, there seem to be serious obstacles in the way of the realisation of their budgetary and currency reforms. A thorough programme of reforms, orderly conditions and economic prosperity could not be realised in the conditions of insecurity and disturbance which existed in 1932.

"As regards the 'Government' and the public services, although the titular heads of the Departments are Chinese residents in Manchuria, the main political and administrative power rests in the hands of Japanese officials and advisers. The political and administrative organisation of the Government is such as to give these officials and advisers opportunities not merely of giving technical advice but of actually controlling and directing the administration. They are doubtless not under the orders of the Tokyo Government, and their policy has not always coincided with the official policy either of the Japanese Government or of the Headquarters of the Kwantung Army. But in the case of all important problems these officials and advisers, some of whom were able to act more or less independently in the first days of the new organisation, have been constrained more and more to follow the direction of Japanese official authority. This authority, in fact, by reason of the occupation of the country by

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Chapter VI

its troops, by the dependence of the 'Manchukuo Government' on those troops for the maintenance of its authority both internally and externally; in consequence, too, of the more and more important role entrusted to the South Manchuria Railway Company in the management of the railways under the jurisdiction of the 'Manchukuo Government,' and finally by the presence of its consuls as liaison agents in the most important urban centres, possesses in every contingency the means of exercising an irresistible pressure. The liaison between the 'Manchukuo Government' and Japanese official authority is still further emphasised by the recent appointment of a special ambassador, not officially accredited but resident in the capital of Manchuria, exercising, in his capacity of Governor-General of the Kwantung Leased Territory, a control over the South Manchuria Railway Company, and concentrating in the same office the authority of a diplomatic representative, the head of the consular service and commander-in-chief of the Army of Occupation.

"The relations between 'Manchukuo' and Japan have hitherto been somewhat difficult to define, but the latest information in the possession of the Commission indicates that it is the intention of the Japanese Government to define them before long. A letter dated August 27th, 1932, addressed to the Commission by the Japanese Assessor, states that the Special Ambassador, General Muto, 'left Tokyo on August 20th for Manchuria. On arrival he will commence negotiations for the conclusion of a fundamental treaty concerning

the establishment of friendly relations between Japan and Manchuria. The Government of Japan regards the conclusion of this treaty as a formal recognition of "Manchukuo".

Part III describes the opinions of the inhabitants of Manchuria as obtained by the Commission during its enquiry. These were almost uniformly hostile. All classes of the Chinese population oppose Manchukuo actively or passively, even those who serve it to make a living, such as the magistrates, police and soldiers. The racial minorities—Mongols, Manchus, Koreans and White Russians—give it some support. The Commission states:

"After careful study of the evidence presented to us in public and private interviews, in letters and written statements, we have come to the conclusion that there is no general Chinese support for the 'Manchukuo Government,' which is regarded by the local Chinese as an instrument of the Japanese."

CHAPTER VII deals with the economic interests of Japan and describes the effect of the Chinese boycott upon Japanese trade. The Commission expresses the view that the boycott movement is both spontaneous and organised: that is to say, that it is founded on a strong popular feeling, but the main controlling authority is the Kuomintang.

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Chapter VIII

Many illegal acts are committed during the boycott movement, and these are not sufficiently suppressed.

The Commission recognises the value of the boycott as a measure of defence against aggression which cannot be otherwise resisted, but whether the organised application of the boycott against the trade of one particular country is consistent with friendly relations or in conformity with treaty obligations is a problem of international law on which the Commission declines to give an opinion; but they express the hope that "in the interests of all States this problem may be considered at an early date and regulated by international agreement."

CHAPTER VIII deals with the economic interests in Manchuria of both China and Japan. The Commission considers these to be not irreconcilable and points out that their reconciliation is necessary if the existing resources and future economic possibilities of Manchuria are to be developed to the fullest extent. They comment as follows:

"The resources of Manchuria are great, and as yet not fully ascertained. For their development they require population, capital, technical skill, organisation and internal security. The population is almost entirely supplied by China. Large numbers of the existing population were born in provinces of

North China, where their family ties are still very close. Capital, technical skill and organisation have hitherto chiefly been provided by Japan in South Manchuria, and by Russia north of Changchun. Other foreign countries, to a much smaller degree, have interests throughout the Three Provinces, but principally in the large cities. Their representatives have exercised a conciliatory influence in the recent years of political tension, and will continue to do so, provided that Japan, as the dominating economic Power, does not attempt to monopolise the field. The all-important problem at the present time is the establishment of an administration acceptable to the population and capable of supplying the last need—namely, the maintenance of law and order.

"No foreign Power could develop Manchuria or reap any benefit from an attempt to control it without the goodwill and whole-hearted co-operation of the Chinese masses, which form the bulk of the population, tilling its soil and supplying the labour for practically every enterprise in the country. Neither will China ever be free from anxiety and danger unless these northern Provinces cease to afford a battle-ground for the conflicting ambitions of neighbouring Powers. It is as necessary, therefore, for China to satisfy the economic interests of Japan in this territory as for Japan to recognise the unalterably Chinese character of its population."

CHAPTERS IX and X deal with the future, and contain the suggestions of the Com-

Chapter X

mission for a durable settlement of the present dispute. Chapter IX lays down the following ten conditions which the Commission regard as the necessary features of any satisfactory solution:

- (1) Compatibility with the interests of both China and Japan;
- (2) Consideration for the interests of U.S.S.R.;
- (3) Conformity with existing multilateral treaties;
- (4) Recognition of Japan's interests in Manchuria;
- (5) The establishment of new treaty relations between China and Japan;
- (6) Effective provision for the settlement of future disputes;
- (7) Manchurian autonomy;
- (8) Internal order and security against external aggression;
- (9) Encouragement of an economic rapprochement between China and Japan;
- (10) International co-operation in Chinese reconstruction.

Chapter X contains the suggestions of the Commission for meeting these conditions. The first step would be an invitation from the Council to both parties to discuss a solution of their dispute on the basis of the ten principles enumerated in the previous chapter. If the invitation is accepted, an Advisory Conference is then to be summoned, com-

posed of representatives of China and Japan, together with a delegation representing the inhabitants of Manchuria, to be selected as to one-half in a manner to be prescribed by the Chinese Government and as to the other half in a manner to be prescribed by the Japanese Government. This Conference would draft a Constitution for Manchuria within certain limits previously laid down, and would be assisted, if so desired, by neutral observers. In the event of failure to agree on any matter, the point in dispute would be referred to the Council, which would endeavour to obtain agreement.

The constitution finally agreed upon either with or without further reference to the Council, would then be embodied in a Declaration to be made by the Government of China, and transmitted to the League of Nations and the signatory powers of the Nine-Power Treaty, which would give it the character of an international Agreement.

Simultaneously with the sittings of the Advisory Conference, it is proposed that all other matters in dispute between China and Japan not connected with Manchuria should be separately discussed between plenipotentiaries of the two countries, also assisted by neutral observers; the results of such negotiations to be finally embodied in three separate Treaties: (1) A General Treaty;

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(2) A Treaty of Conciliation, Arbitration, Non-Aggression and Mutual Assistance; (3) A Commercial Treaty.

The procedure outlined by the Commission is not merely a general reference back to the parties to settle their own dispute, because in the first instance the conditions suggested by the Commission, and any others which the Council might see fit to add, would determine in advance the general character of the settlement aimed at. Again, before any discussion of the details began, certain additional matters would have been discussed, and, it is hoped, agreed upon, at the Council, such as the grant of a large measure of autonomy to the Three Eastern Provinces; the establishment of a Special Gendarmerie Corps as the sole means of maintaining internal security in that area; and the granting of a general amnesty by China to all who had taken part in the recent political developments in Manchuria.

Although full discretion will be left to the Parties as regards the details, the Commission make certain suggestions regarding:

(1) The distribution of powers between the Central Government of China and the autonomous local Government of Manchuria.

It is suggested that the Central Government should retain the control of general

treaty and foreign relations, the Customs, Post Office and Salt Gabelle; that it should appoint at least in the first instance the Chief Executive. All other powers would be vested in the autonomous Government of the Three Eastern Provinces.

(2) *Foreign Advisers.*

It is suggested that an adequate number of Foreign Advisers should be appointed by the Chief Executive of the autonomous Government, of whom a substantial proportion should be Japanese. Two foreigners of different nationality are proposed to supervise (a) the Special Constabulary, (b) the fiscal administration. These to be selected by the Chief Executive from a panel to be submitted by the Council of the League. One foreigner, as a general adviser to the Central Bank of the Three Eastern Provinces, would be selected by the Chief Executive from a panel submitted by the Board of Directors of the Bank for International Settlements.

(3) *Economic Interests of Japan.*

It is suggested that the General Sino-Japanese Treaty should deal principally with certain economic rights of Japanese nationals and with railway questions.

The aims of the Treaty should be:

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- (a) The free participation of Japan in the economic development of Manchuria, which would not carry with it a right to control the country, either economically or politically;
- (b) The continuance in the Province of Jehol of such rights as Japan now enjoys there;
- (c) An extension to the whole of Manchuria of the right to settle and lease land, coupled with some modification of the principle of extraterritoriality;
- (d) An agreement regarding the operation of the railways.

Hitherto the rights of settlement of Japanese nationals have been confined to South Manchuria and have been accompanied by extraterritorial status. The Japanese want this right of settlement extended to the whole of Manchuria; the Chinese want to get rid of the status of extraterritoriality. The Commission refer to two possible compromise solutions, without favouring either. Right of settlement in North Manchuria and Jehol might be extended to both Japanese and Koreans, without extraterritorial rights. Alternatively, Japanese might be allowed to settle anywhere in the whole of Manchuria and Jehol with extraterritorial status, and Koreans without it. The Commission remark that the most obviously satisfactory solution would be to make the administration

of Manchuria so efficient that extraterritoriality would no longer be desired.

(4) *Railways.*

As regards railways the Commission suggest either a working agreement between the Chinese and Japanese railway administrations, with a joint Sino-Japanese Railway Commission, or an actual amalgamation of the Chinese and Japanese railways into one commercial company.

(5) *Demilitarisation of Manchuria.*

It is suggested that the Sino-Japanese Treaty of Conciliation and Arbitration, Non-Aggression and Mutual Assistance should follow one of the existing precedents. It would provide for a Board of Conciliation for the settlement of disputed issues as they arose, and an Arbitration Tribunal composed of persons with judicial experience and knowledge of the Far East, to deal with questions of interpretation of the Declaration and the new Treaties.

Finally, in conformity with the provisions for Non-Aggression and Mutual Assistance inserted in the Treaty, the contracting parties should agree that Manchuria should gradually become a demilitarised area. With this object, it would be provided that after

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Chapter X

the organisation of the gendarmerie had been effected, any violation of the demilitarised territory by either of the parties or by a third party would constitute an act of aggression entitling the other party, or both parties in the case of a third party attack, to take whatever measures might be deemed advisable to defend the demilitarised territory, without prejudice to the right of the Council of the League to take action under the Covenant.

If the Government of the U.S.S.R. desired to participate in the Non-Aggression and Mutual Assistance section of such a treaty, the appropriate clauses could be embodied in a separate tripartite agreement.

The Sino-Japanese Commercial Treaty is suggested by the Commission with the object of improving the trade relations between China and Japan while safeguarding the existing treaty rights of other countries. It should contain an undertaking by the Chinese Government to take all measures within its power to forbid and repress organised boycott movements against Japanese trade, without prejudice to the individual rights of Chinese consumers.

The general effect of the suggestions of the Commission is that the League should

use its good offices in securing a settlement, should indicate the general character of the settlement which might be regarded as satisfactory, and, if these conditions are accepted, should then leave the two parties to settle the details.

Whatever may be the details of future agreements, the essential point, say the Commission, is "that negotiations should be begun as soon as possible, and should be conducted in a spirit of mutual confidence."

Copies of the full text of the Report of the Commission of Enquiry appointed by the League of Nations in consequence of the appeal of the Chinese Government, can be obtained, price 10s. od., from the LEAGUE OF NATIONS UNION, 15, Grosvenor Crescent, S.W.1, or can be ordered through any bookseller.

III

SUMMARY

OF THE

REPORT UNANIMOUSLY ADOPTED BY THE ASSEMBLY ON FEBRUARY 24TH, 1933

THE Assembly, having failed to effect conciliation in the Far Eastern dispute, adopts the following Report under Article 15, paragraph 4.

PART I

EVENTS IN THE FAR EAST

The underlying causes of the dispute between China and Japan are complex. The first eight chapters of the Report of the Commission of Enquiry (the Lytton Report) present a balanced, impartial and detailed statement of the background and history of events in Manchuria. The Assembly adopts as part of its own Report the historical chapters (1-8) of the Lytton Report. With regard to Shanghai the Assembly adopts the reports of the Consular Commission of Enquiry. Events since the Lytton Report must be recounted.

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PART II

THE DISPUTE BEFORE THE LEAGUE OF NATIONS

SUMMARY OF DEVELOPMENT

The Council from September 1931, acting under Article XI, received repeated assurances from Japan that she had no territorial designs, and would withdraw, subject to the safety of her nationals. In response to the Japanese demand for settlement of fundamental questions, the Council despatched the Lytton Commission in December. The situation then changed for the worse. Japanese troops completed the occupation of South Manchuria and began to occupy North Manchuria. Outside Manchuria a severe conflict began at Shanghai. The civil government in the regions occupied by Japanese troops was re-organised as "Manchukuo," and did not recognise Chinese sovereignty. China invoked Articles 10 and 15, and the dispute was referred to the Assembly. Pending the arrival of the Lytton Commission's Report, the League tried to stop hostilities and prevent aggravation of the dispute. The Assembly on March 11th, 1932, declared that the League could not recognise any situation brought

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about by means contrary to the Covenant and Kellogg Pact.

The hostilities at Shanghai ended, but fighting continued in Manchuria between Japanese and Manchukuo forces and Chinese irregulars. In September, some days after the signature of the Lytton Report, the Japanese Government recognised "Manchukuo." The Lytton Report reached Geneva in October. The Assembly extended the time-limit for its Report; and attempted from November 1932 to February 1933 to negotiate on the basis of the conclusions of the Lytton Report, but without success. It then proceeded to the adoption of the present Report.

The remainder of Part II of the Report expands the above summary of the history of the dispute and of the League's dealings with it.*

PART III CHIEF CHARACTERISTICS OF THE DISPUTE

It will be seen from this review that for more than sixteen months the Council or Assembly has continuously tried to find a solution for the

*The main events since the Lytton Report was written are the recognition of "Manchukuo" by Japan, the Treaty of Alliance between Japan and Manchukuo (September 15th, 1931,) and the occurrences described above on page 8.

Sino-Japanese dispute. Numerous resolutions have been adopted based on various articles of the Covenant and other international agreements. The complexity, to which reference has already been made, of the historical background of the events; the special legal situation of Manchuria, where Japan, as will be noted later, exercised within Chinese territory extensive rights; finally, the involved and delicate relations existing in fact between the Chinese and Japanese authorities in certain parts of Manchuria justified and rendered necessary the prolonged efforts of negotiation and enquiry made by the League. However, the hopes entertained by the Council and the Assembly of an improvement in the situation, arising from the declarations of the parties and the resolutions adopted with their participation, were disappointed. The situation, on the contrary, tended to grow constantly worse. In Manchuria, or other parts of the territory of a Member of the League, military operations, which the report of the Commission of Enquiry has described as "war in disguise," continued and still continue.

Having considered the principal features of the dispute, the Assembly has reached, in particular, the following conclusions and noted the following facts:

1. The dispute between China and Japan which is submitted to the Assembly originated in Manchuria, which China and foreign Powers have always regarded as an integral part of China under Chinese sovereignty. In its observations on the report of the Commission of Enquiry,* the Japanese Government contests

*Document C.775.1932, page 18.

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the argument that the rights conferred on Russia and subsequently acquired by Japan "in the extremely limited area known as the Southern Manchuria Railway zone" conflict with Chinese sovereignty. "They were, on the contrary, derived from the sovereignty of China."

The rights conferred by China on Russia and subsequently on Japan derive from the sovereignty of China. Under the Treaty of Peking in 1905, "the Imperial Chinese Government consented to all the transfers and assignments made by Russia to Japan" under the Treaty of Portsmouth. In 1915, it was to China that Japan addressed demands for the extension of her rights in Manchuria and it was with the Government of the Chinese Republic that, following on these demands, the Treaty of May 25th, 1915, was concluded concerning South Manchuria and Eastern Inner Mongolia. At the Washington Conference, the Japanese delegation stated, on February 2nd, 1922, that Japan renounced certain preferential rights in South Manchuria and Eastern Inner Mongolia and explained that, "in coming to this decision, Japan had been guided by a spirit of fairness and moderation, having always in view China's sovereign rights and the principle of equal opportunity."* The Nine-Power Treaty concluded at the Washington Conference, applies to Manchuria as to every other part of China. Finally, during the first phase of the present conflict, Japan never argued that Manchuria was not an integral part of China.

2. Past experience shows that those who con-

*Conference on the Limitation of Armaments, Washington, 1922, page 1512.

trol Manchuria exercise a considerable influence on the affairs of the rest of China—at least of North China—and possess unquestionable strategic and political advantages. To cut off these provinces from the rest of China cannot but create a serious irredentist problem likely to endanger peace.

3. The Assembly, in noting these facts, is not unmindful of the tradition of autonomy existing in Manchuria. That tradition, in one extreme case, and in a period of particular weakness on the part of the Central Government of China, made it possible, for instance, for the plenipotentiaries of Marshal Chang Tso-lin to conclude, in the name of the "Government of the autonomous three Eastern Provinces of the Republic of China," the agreement of September 20th, 1924, with the Union of Soviet Socialist Republics concerning the Chinese Eastern Railway, navigation, the delimitation of frontiers, etc. It is obvious from the provisions of that agreement, however, that the Government of the autonomous three Eastern Provinces did not regard itself as the Government of a State independent of China, but believed that it might itself negotiate with the Union of Soviet Socialist Republics on questions affecting the interests of China in the three provinces, though the Central Government had, a few months previously, concluded an agreement on these questions with the self-same Power.

This autonomy of Manchuria was also shown by the fact that, first, Marshal Chang Tso-lin and later Marshal Chang Hsueh-liang were the heads both of the civil and military administration and exercised the effective power in the

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three provinces through their armies and their officials. The independence proclaimed by Marshal Chang Tso-lin at different times never meant that either he or the people of Manchuria wished to be separated from China. His armies did not invade China as if it were a foreign country but merely as participants in the civil war. Through all its wars and periods of "independence," Manchuria remained an integral part of China. Further, since 1928, Marshal Chang Hsueh-liang has recognised the authority of the Chinese National Government.

4. During the quarter of a century ending in September 1931, the political and economic ties uniting Manchuria with the rest of China grew stronger, while, at the same time, the interests of Japan in Manchuria did not cease to develop. Under the Chinese Republic, the "three Eastern Provinces" constituting Manchuria were thrown wide to the immigration of Chinese from the other provinces who, by taking possession of the land, have made Manchuria in many respects a simple extension of China north of the Great Wall. In a population of about thirty millions, it is estimated that the Chinese or assimilated Manchus number twenty-eight millions. Moreover, under the administration of Marshals Chang Tso-lin and Chang Hsueh-liang, the Chinese population and Chinese interests have played a much more important part than formerly in the development and organisation of the economic resources of Manchuria.

On the other hand, Japan had acquired or claimed in Manchuria rights the effect of which was to restrict the exercise of sovereignty by China in a manner and to a degree quite excep-

tional. Japan governed the leased territory of Kwantung, exercising therein what amounted in practice to full sovereignty. Through the medium of the South Manchuria Railway, she administered the railway zones, including several towns and important parts of populous cities, such as Mukden and Changchun. In these areas, she had control of the police, taxes, education and public utilities. She maintained armed forces in certain parts of the country: the army of Kwangtung in the leased territory; railway guards in the railway zones; consular police in the various districts. Such a state of affairs might perhaps have continued without leading to complications and incessant disputes if it had been freely desired or accepted by both parties and if it had been the expression and manifestation of a well-understood policy of close economic and political co-operation. But, in the absence of such conditions, it was bound to lead to mutual misunderstandings and conflicts. The interconnection of respective rights, the uncertainty at times of the legal situation, the increasing opposition between the conception held by the Japanese of their "special position" in Manchuria and the claims of Chinese nationalism were a further source of numerous incidents and disputes.

5. Before September 18th, 1931, each of the two parties had legitimate grievances against the other in Manchuria, Japan taking advantage of rights open to question and the Chinese authorities putting obstacles in the way of the exercise of rights which could not be contested. During the period immediately preceding the events of September 18th, various efforts were made to settle the questions outstanding

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between the two parties by the normal method of diplomatic negotiations and pacific means, and these means had not been exhausted. Nevertheless, the tension between Chinese and Japanese in Manchuria increased and a movement of opinion in Japan advocated the settlement of all outstanding questions—if necessary, by force.

6. The present period of transition and national reconstruction in China, despite the efforts of the Central Government and the considerable progress already achieved, necessarily involves political disturbances, social disorder and disruptive tendencies inseparable from a state of transition. It calls for the employment of a policy of international co-operation. One of the methods of that policy would be that the League of Nations would continue to afford China the technical assistance in modernising her institutions which her Government might request with a view to enabling the Chinese people to re-organise and consolidate the Chinese State.

The full application of the policy of international co-operation initiated at the Washington Conference, the principles of which are still valid, has been delayed, chiefly by the violence of the anti-foreign propaganda carried on in China from time to time. In two respects—the use of the economic boycott and anti-foreign teaching in schools—this propaganda has been pushed to such lengths that it has contributed to creating the atmosphere in which the present dispute broke out.

7. The use of the boycott by the Chinese previous to the events of September 18th, 1931, to express their indignation at certain incidents

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or to support certain claims could not fail to make a situation which was already tense still more tense.

The use of the boycott by China, subsequent to the events of September 18th, 1931, falls under the category of reprisals.

8. The object of the provisions of the Covenant of the League of Nations regarding the settlement of disputes is to prevent the tension between nations becoming such that a rupture appears to be inevitable. The Commission of Enquiry found that each of the issues between China and Japan was in itself capable of settlement by arbitral procedure. It is precisely because the accumulation of these issues increased the tension between the two nations that it was incumbent on the nation which regarded itself as injured to draw the attention of the League of Nations to the situation when diplomatic negotiations were unduly protracted.

Article 12 of the Covenant contains formal obligations as regards the pacific settlement of disputes.

9. Without excluding the possibility that, on the night of September 18th-19th, 1931, the Japanese officers on the spot may have believed that they were acting in self-defence, the Assembly cannot regard as measures of self-defence the military operations carried out on that night by the Japanese troops at Mukden and other places in Manchuria. Nor can the military measures of Japan as a whole, developed in the course of the dispute, be regarded as measures of self-defence. Moreover, the adoption of measures of self-defence does not exempt a State from complying with the provisions of Article 12 of the Covenant.

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10. Since September 18th, 1931, the activities of the Japanese military authorities, in civil as well as in military matters, have been marked by essentially political considerations. The progressive military occupation of the Three Eastern Provinces removed in succession all the important towns in Manchuria from the control of the Chinese authorities, and, following each occupation, the civil administration was re-organised. A group of Japanese civil and military officials conceived, organised and carried through the Manchurian independence movement as a solution to the situation in Manchuria as it existed after the events of September 18th, and, with this object, made use of the names and actions of certain Chinese individuals and took advantage of certain minorities and native communities that had grievances against the Chinese administration. This movement, which rapidly received assistance and direction from the Japanese General Staff, could only be carried through owing to the presence of the Japanese troops. It cannot be considered as a spontaneous and genuine independence movement.

11. The main political and administrative power in the "Government" of "Manchukuo," the result of the movement described in the previous paragraph, rests in the hands of Japanese officials and advisers, who are in a position actually to direct and control the administration; in general, the Chinese in Manchuria, who, as already mentioned, form the vast majority of the population, do not support this "Government" and regard it as an instrument of the Japanese. It should also be noted that, after the Commission of Enquiry com-

pleted its report and before the report was considered by the Council and the Assembly, "Manchukuo" was recognised by Japan. It has not been recognised by any other State, the Members of the League in particular being of opinion that such recognition was incompatible with the spirit of the resolution of March 11th, 1932.

The situation which led up to the events of September 18th, 1931, presents certain special features. It was subsequently aggravated by the development of the Japanese military operations, the creation of the "Manchukuo Government" and the recognition of that "Government" by Japan. Undoubtedly the present case is not that of a country which has declared war on another country without previously exhausting the opportunities for conciliation provided in the Covenant of the League of Nations; neither is it a simple case of the violation of the frontier of one country by the armed forces of a neighbouring country, because in Manchuria, as shown by the circumstances noted above, there are many features without an exact parallel in other parts of the world. It is, however, indisputable that, without any declaration of war, a large part of Chinese territory has been forcibly seized and occupied by Japanese troops and that, in consequence of this operation, it has been separated from and declared independent of the rest of China.

The Council, in its resolution of September 30th, 1931, noted the declaration of the Japanese representative that his Government would continue, as rapidly as possible, the withdrawal

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of its troops, which had already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals was effectively ensured, and that it hoped to carry out this intention in full as speedily as might be. Further, in its resolution of December 10th, 1931, the Council, re-affirming its resolution of September 30th, noted the undertaking of the two parties to adopt all measures necessary to avoid any further aggravation of the situation and to refrain from any initiative which might lead to further fighting and loss of life.

It should be pointed out in connection with these events that, under Article 10 of the Covenant, the Members of the League undertake to respect the territorial integrity and existing political independence of all Members of the League.

Lastly, under Article 12 of the Covenant, the Members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or judicial settlement or to enquiry by the Council.

While at the origin of the state of tension that existed before September 18th, 1931, certain responsibilities would appear to lie on one side and the other, no question of Chinese responsibility can arise for the development of events since September 18th, 1931.

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PART IV

STATEMENT OF THE RECOMMENDATIONS

This part sets forth the recommendations which the Assembly deems just and proper in regard to the dispute.

SECTION I.

The recommendations of the Assembly take into account the very special circumstances of this case and are based on the following principles, conditions and considerations:

(a) The settlement of the dispute should observe the provisions of the Covenant of the League, the Pact of Paris, and the Nine-Power Treaty of Washington.

Article 10 of the Covenant of the League provides that "the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League."

According to Article II of the Pact of Paris, "the High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature, or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

According to Article I of the Nine-Power Treaty of Washington, "the Contracting Powers, other than China, agree to respect the sovereignty, the independence, and the territorial and administrative integrity of China."

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(b) The settlement of the dispute should observe the provisions of Parts I and II of the Assembly resolution of March 11th, 1932.

In that resolution, which has already been quoted in this report, the Assembly considered that the provisions of the Covenant were entirely applicable to the present dispute, more particularly as regards:

(1) The principle of a scrupulous respect for treaties;

(2) The undertaking entered into by Members of the League of Nations to respect and preserve as against external aggression the territorial integrity and existing political independence of all the Members of the League;

(3) Their obligation to submit any dispute which may arise between them to procedures for peaceful settlement.

The Assembly has adopted the principles laid down by the President-in-Office of the Council in his declaration of December 10th, 1931, and has recalled the fact that twelve Members of the Council had again invoked those principles in their appeal to the Japanese Government on February 16th, 1932, when they declared that no infringement of the territorial integrity and no change in the political independence of any Member of the League brought about in disregard of Article 10 of the Covenant ought to be recognised as valid and effectual by Members of the League.

The Assembly has stated its opinion that the principles governing international relations and the peaceful settlement of disputes between Members of the League above referred to are

in full harmony with the Pact of Paris. Pending the steps which it might ultimately take for the settlement of the dispute which had been referred to it, it has proclaimed the binding nature of the principles and provisions referred to above and declared that it was incumbent upon the Members of the League not to recognise any situation, treaty or agreement which might be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris.

Lastly, the Assembly has affirmed that it is contrary to the spirit of the Covenant that the settlement of the Sino-Japanese dispute should be sought under the stress of military pressure on the part of either party, and has recalled the resolutions adopted by the Council on September 30th and December 10th, 1931, in agreement with the parties.

(c) In order that a lasting understanding may be established between China and Japan on the basis of respect for the international undertakings mentioned above, the settlement of the dispute must conform to the principles and conditions laid down by the Commission of Enquiry in the following terms:

"1. Compatibility with the interests of both China and Japan.

"Both countries are Members of the League and each is entitled to claim the same consideration from the League. A solution from which both did not derive benefit would not be a gain to the cause of peace.

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"2. Consideration for the interests of the Union of Soviet Socialist Republics.

"To make peace between two of the neighbouring countries without regard for the interests of the third would be neither just nor wise, nor in the interests of peace.

"3. Conformity with existing multilateral treaties.

"Any solution should conform to the provisions of the Covenant of the League of Nations, the Pact of Paris, and the Nine-Power Treaty of Washington.

"4. Recognition of Japan's interests in Manchuria.

"The rights and interests of Japan in Manchuria are facts which cannot be ignored, and any solution which failed to recognise them and to take into account also the historical associations of Japan with that country would not be satisfactory.

"5. The establishment of new treaty relations between China and Japan.

"A re-statement of the respective rights, interests and responsibilities of both countries in Manchuria in new treaties, which shall be part of the settlement by agreement, is desirable if future friction is to be avoided and mutual confidence and co-operation are to be restored.

"6. Effective provision for the settlement of future disputes.

"As a corollary to the above, it is necessary that provision should be made for facilitating the prompt settlement of minor disputes as they arise.

“7. *Manchurian autonomy.*

“The Government in Manchuria should be modified in such a way as to secure, consistently with the sovereignty and administrative integrity of China, a large measure of autonomy designed to meet the local conditions and special characteristics of the Three Provinces. The new civil regime must be so constituted and conducted as to satisfy the essential requirements of good government.

“8. *Internal order and security against external aggression.*

“The internal order of the country should be secured by an effective local gendarmerie force, and security against external aggression should be provided by the withdrawal of all armed forces other than gendarmerie, and by the conclusion of a treaty of non-aggression between the countries interested.

“9. *Encouragement of an economic rapprochement between China and Japan.*

“For this purpose, a new commercial treaty between the two countries is desirable. Such a treaty should aim at placing on an equitable basis the commercial relations between the two countries and bringing them into conformity with their improved political relations.

“10. *International co-operation in Chinese reconstruction.*

“Since the present political instability in China is an obstacle to friendship with Japan and an anxiety to the rest of the world (as the

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maintenance of peace in the Far East is a matter of international concern), and since the conditions enumerated above cannot be fulfilled without a strong Central Government in China, the final requisite for a satisfactory solution is temporary international co-operation in the internal reconstruction of China, as suggested by the late Dr. Sun Yat-sen."

SECTION II.

The provisions of this section constitute the recommendations of the Assembly under Article 15, paragraph 4, of the Covenant.

Having defined the principles, conditions and considerations applicable to the settlement of the dispute,

THE ASSEMBLY RECOMMENDS AS FOLLOWS:

1. Whereas the sovereignty over Manchuria belongs to China,

A. Considering that the presence of Japanese troops outside the zone of the South Manchuria Railway and their operations outside this zone are incompatible with the legal principles which should govern the settlement of the dispute, and that it is necessary to establish as soon as possible, a situation consistent with these principles,

The Assembly recommends the evacuation of these troops. In view of the special circumstances of the case, the first object of the negotiations recommended hereinafter should be to organise this evacuation and to determine the methods, stages and time-limits thereof.

B. Having regard to the local conditions special to Manchuria, the particular rights and

interests possessed by Japan therein, and the rights and interests of third States,

The Assembly recommends the establishment in Manchuria, within a reasonable period, of an organisation under the sovereignty of, and compatible with the administrative integrity of, China. This organisation should provide a wide measure of autonomy, should be in harmony with local conditions and should take account of the multilateral treaties in force, the particular rights and interests of Japan, the rights and interests of third States, and, in general, the principles and conditions reproduced in Section I (c) above; the determination of the respective powers of and relations between the Chinese Central Government and the local authorities should be made the subject of a Declaration by the Chinese Government having the force of an international undertaking.

2. Whereas, in addition to the questions dealt with in the two recommendations 1A and 1B, the report of the Commission of Enquiry mentions in the principles and conditions for a settlement of the dispute set out in Section I (c) above certain other questions affecting the good understanding between China and Japan, on which peace in the Far East depends,

The Assembly recommends the parties to settle these questions on the basis of the said principles and conditions.

3. Whereas the negotiations necessary for giving effect to the foregoing recommendations should be carried on by means of a suitable organ.

The Assembly recommends the opening of negotiations between the two parties in accordance with the method specified hereinafter.

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Each of the parties is invited to inform the Secretary-General whether it accepts, so far as it is concerned, the recommendations of the Assembly, subject to the sole condition that the other party also accepts them.

The negotiations between the parties should take place with the assistance of a Committee set up by the Assembly as follows: The Assembly hereby invites the Governments of . . . each to appoint a member of the Committee as soon as the Secretary-General shall have informed them that the two parties accept the Assembly's recommendations. The Secretary-General shall also notify the Governments of the United States of America and of the Union of Soviet Socialist Republics of this acceptance and invite each of them to appoint a member of the Committee should it so desire. Within one month after having been informed of the acceptance of the two parties, the Secretary-General shall take all suitable steps for the opening of negotiations.

In order to enable the Members of the League, after the opening of negotiations, to judge whether each of the parties is acting in conformity with the Assembly's recommendations:

(a) The Committee will, whenever it thinks fit, report on the state of the negotiations, and particularly on the negotiations with regard to the carrying out of recommendations *IA* and *B* above; as regards recommendation *IA*, the Committee will in any case report within three months of the opening of negotiations. These reports shall be communicated by the Secretary-General to the Members of the League and to

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the non-member States represented on the Committee;

(b) The Committee may submit to the Assembly all questions relating to the interpretation of Section II of Part IV of the present report. The Assembly shall give this interpretation in the same conditions as those in which the present report is adopted, in conformity with Article 15, paragraph 10, of the Covenant.

SECTION III.

In view of the special circumstances of the case, the recommendations made do not provide for a mere return to the *status quo* existing before September 1931. They likewise exclude the maintenance and recognition of the existing regime in Manchuria, such maintenance and recognition being incompatible with the fundamental principles of existing international obligations and with the good understanding between the two countries on which peace in the Far East depends.

It follows that, in adopting the present report, the Members of the League intend to abstain, particularly as regards the existing regime in Manchuria, from any act which might prejudice or delay the carrying out of the recommendations of the said report. They will continue not to recognise this regime either *de jure* or *de facto*. They intend to abstain from taking any isolated action with regard to the situation in Manchuria and to continue to concert their action among themselves as well as with the interested States

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not members of the League. As regards the Members of the League who are signatories of the Nine-Power Treaty, it may be recalled that, in accordance with the provisions of that Treaty: "Whenever a situation arises which, in the opinion of any one of them, involves the application of the stipulations of the present Treaty and renders desirable discussion of such application, there shall be full and frank communication between the contracting Powers concerned."

In order to facilitate as far as possible the establishment in the Far East of a situation in conformity with the recommendations of the present report, the Secretary-General is instructed to communicate a copy of this report to the States non-members of the League who are signatories of the Pact of Paris, or of the Nine-Power Treaty, informing them of the Assembly's hope that they will associate themselves with the views expressed in the report, and that they will, if necessary, concert their action and their attitude with the Members of the League.

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On February 24th the League Assembly adopted this Report, unanimously save for Japan. Dr. Yen for China welcomed it as a vindication of the Chinese cause, a condemnation of Japanese militarism, and a just and courageous League verdict. China would vote for the Report. Mr. Matsuoka for Japan refused the Report, it failed to understand the realities of the situation and the chaotic condition of China. Japan had

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tried and failed to co-operate with the Chinese authorities in Manchuria. The League had encouraged China to refuse direct settlement and the report omitted the civilising work of Japan in Manchuria. The suggestion of international control in that country was unjustified; would America allow it over the Panama Canal, or Britain over Egypt? The Japanese people would oppose such an attempt, as was their right. Japan must reply "No" to the Report: she desired to help China.

After the vote on the Report Mr. Matsuoka said that his Government found themselves impelled to conclude that Japan and other members of the League entertained different views of the manner to achieve peace in the Far East, and were obliged to feel that they had now reached the limit of their endeavours to co-operate with the League in regard to the Sino-Japanese difference. ~~The Japanese delegation then withdrew from the Assembly.~~

The United States of America endorsed the Assembly Report and consented to appoint a member to take part in the new Committee, without voting. Russia refused. On March 15th the Committee formed two sub-committees, one charged with considering the export of arms in relation to the Far East, and the other the application of

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the undertakings contained in Part IV Section III of the Report.

The present membership of the Advisory Committee is M. Hymans, Belgium (chairman), Great Britain, France, Germany, Italy, Poland, Czechoslovakia, Mexico, Spain, Panama, Irish Free State, Norway, Guatemala (Council Members); Switzerland, Colombia, Portugal, Hungary, Sweden, Turkey, Netherlands, Canada (elected Assembly Members); United States (non-League Member).

IV

RESOLUTION

ADOPTED BY THE ASSEMBLY
ON FEBRUARY 24TH, 1933

Whereas in virtue of Article 3, paragraph 3 of the Covenant, the Assembly may deal at its meetings with any matter affecting the peace of the world, and therefore cannot regard with indifference the development of the Sino-Japanese dispute;

And whereas, according to Part IV, Section III of the Report adopted by the Assembly in virtue of Article 15, paragraph 4, the Members of the League "intend to abstain from taking any isolated action with regard to the situation in Manchuria and to continue to concert their action among themselves as well as with the interested States not members of the League" and, "in order to facilitate as far as possible the establishment in the Far East of a situation in conformity with the recommendations of the present Report, the Secretary-General is instructed to communicate a copy of this Report to the States non-Members of the League who are signatories of or have

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acceded to the Pact of Paris or of the Nine-Power Treaty, informing them of the Assembly's hope that they will associate themselves with the views expressed in the report, and that they will, if necessary, concert their action and their attitude with the Members of the League";

The Assembly decides to appoint an Advisory Committee to follow the situation, to assist the Assembly in performing its duties under Article 3, paragraph 3 and, with the same objects, to aid the Members of the League in concerting their action and their attitude among themselves and with the non-Member States.

The Committee will consist of the Members of the Committee of Nineteen and the representatives of Canada and the Netherlands.

The Committee will invite the Governments of the United States of America and the U.S.S.R. to take part in its work.

It shall report and make proposals to the Assembly whenever it thinks fit. It shall also communicate its reports to the Governments of the States non-Members of the League which are taking part in its proceedings.

The Assembly shall remain in session and its President, after consulting the Committee, may convene it whenever he thinks fit.

V

SUMMARY OF THE STATEMENT OF THE JAPANESE GOVERNMENT IN VIRTUE OF PARAGRAPH 5 OF ARTICLE XV OF THE COVENANT

Sent to the League Members on February 25th

PART I

JAPAN'S CO-OPERATION WITH THE LEAGUE OF NATIONS

Japan has co-operated with the League of Nations from its inception as an original and permanent Council member. She regards it as a most powerful instrument for the good of humanity and is only anxious that the Members of the League shall "appreciate the situation in the Far East and deal with it in a practical way rather than by formulæ and principles."

The present dispute was brought to the League by China under Article XI. In spite of the fact that Japan was obliged to act solely in self-defence against aggression on

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the part of China, Japan has spared no effort in explaining to the League the facts and background of this unfortunate incident, and has constantly endeavoured not to aggravate the situation. She has also kept the League informed. But conditions in Manchuria showed no improvement because of the activities of Chang Hsueh-liang. Therefore Japan advocated direct negotiations; but this proposal was not accepted.

Moreover, the Council planned to invite the United States to act as an observer in its deliberations. Japan objected to this as unconstitutional, but the other Council members treated the matter as one of procedure and invited the observer. Japan remained convinced that the action of the majority constituted a clear case of violation of the Covenant. If such an important matter of substance could be decided by majority as procedure, she had ratified the Covenant under an error. Yet she continued to join in League activities.

The discrepancy between the views of the other Members of the League and those entertained by Japan arose from a lack of understanding of the Far Eastern situation on the part of the League. Hence Japan suggested in November 1931 the despatch of a Commission of Enquiry; a proposal adopted on December 10th. Japan helped

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the Commission in its investigations. When difficulty arose through the establishment of the new State of Manchukuo regarding the entrance of the Chinese Assessor into that State, Japan exerted her good offices with Manchukuo in order to smooth over this difficulty.

The Report was published on October 1st. On account of the brief period allowed for the investigation of the Commission, much remained to be desired for it to claim to present a true picture of China. Japan, therefore, sent observations providing accurate material.

The Lytton Report came before the Council and Assembly. The Committee of Nineteen appointed by the Assembly without the concurrence of Japan drafted on December 15th a resolution proposing conciliation under Article XV, paragraph 3. Japan proposed the deletion of the invitation to non-Members, and of the paragraph declaring that the maintenance of the present regime in Manchuria could not be considered as a solution. At the same time she tried to discover a compromise.

The Assembly President and the Secretary-General entered into conversations with the delegations of Japan and China. A draft was prepared and referred to the Japanese Government, but when Japan sent its

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amendments to the Nineteen, it was informed that the draft could not be taken up. This caused great surprise to the Japanese Government, as they had every reason to believe that the President raised no objection to the preparation of the draft.

The Committee of Nineteen finally agreed to delete the invitation to non-Member States, but proposed to retain the rest of their resolution. The statement of reasons attached to this would prejudice the whole question and imply a direct attack on the policy followed by Japan in respect to the existence of Manchukuo. It was not an attitude of conciliation. So Japan could not accept it. The Committee of Nineteen then drafted a report under Article XV, paragraph 4.

Japan continued to attempt conciliation, accepting as a basis Chapter IX of the Lytton Report, and asking that the statement should be modified so as not to constitute an attack on Japanese policy. The Nineteen refused this proposal and drafted a report adopted, in spite of the negative vote of Japan on February 24th.

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PART II

ERRORS IN THE REPORT CONCERNING CHIEF CHARACTERISTICS OF THE DISPUTE

The Report sets forth the "chief characteristics of the dispute." It is regrettable that this part is based upon the Lytton Report. The issues of the conflict are complicated, and the members of the Lytton Commission had not time to study them thoroughly. Hence the report is not as complete and impartial as it should be. The errors in the Assembly Report are numerous, e.g.:

1. It clings to the fiction that China exists to-day as a single organised State. This embodies the aspiration for the recovery of China as an orderly State. Japan has worked upon that formula for many years, and is prepared to continue to do so, in ordinary matters. But where her vital necessities come into play, as in Manchuria, she is forced to reconsider the fiction. Some States having little interest in China can preserve it. But Japan, economically and strategically, is forced to set a limit to the fiction and to direct her course according to realities. China ceased to rule in Man-

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churia in 1916. None of the Chinese Governments has authority outside the limited area it controls. That is why Japan denies that Manchuria is integrally a part of China. Why then did Japan invoke Nanking at the outset of the Manchurian dispute? Because she clung to the last moment to the fiction of Manchuria being an integral part of China. But when chaos came to threaten her whole position in Manchuria it became necessary for her to take measures to protect her vast interests and important rights.

Japan is not setting a precedent for denying the existence of a State merely because it is weak or disturbed. As long as a Government maintains its authority in any part of its territory so long it is inviolable. But China is unique in that no authority which now exists has ever been a common government of China at all, and none, therefore, has a title to rule the entire country.

2. The Report in agreeing that the boycott after September 18th falls into the province of retaliatory measures sows the seeds of incalculable trouble for every Power interested in China. All the major Powers conduct military operations in China; and if on each such occasion a retaliatory boycott is imposed, the application of force

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will be extended without limit. It was the Chinese aggravation of the situation by the boycott, contrary to the Council resolutions of September 30th and December 10th which led to the regrettable Shanghai incident.

3. The Report says that an arbitral settlement of the Sino-Japanese dispute was possible. But arbitration presupposes a normal organised State. China was not such a State, at any rate as far as to make it possible to arbitrate on Manchuria. With whom should Japan have arbitrated? With Chang Hsueh-liang, whom the League does not recognise? Or with the Nanking Government, whose authority he did not obey? Japan with her vital interests at stake could not and cannot possibly resort to arbitration in such a matter with such a country as China.

4. The Report says that Japan did not act in self-defence on September 18th, 1931. How can the League judge contrary to the Japanese officers on the spot? "The right of self-defence is one of those inalienable rights of States which may be duly exercised in certain specific circumstances, and the question of on what occasion and to what extent that right should be exercised is a matter which can be determined only by the State concerned." The report declares that

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the further operations of the Japanese army cannot be regarded as self-defence. It disregards the tension which existed and the huge forces with which Japan was faced: and also the vital rights and interests of Japan, not confined to the Railways and Leased Territory, but mining and forestry, consular jurisdiction and trade throughout the whole region. When these rights are threatened measures for their protection may have to be extended throughout Japan. Nor was the China boycott after September 1931 legitimate reprisals. How can reprisals possibly be exercised against a lawful act? The proper reply to acts of self-defence is negotiation and explanation and not reprisals which generally lead to war. A most curious statement of the report is that which says that measures of self-defence do not exempt a State from complying with the provisions of Article XII. To require the observance of Article XII, which stipulates that the right of self-defence may be exercised three months after the award by the arbitrators, is to deny the right of self-defence itself.

5. The Report says that the declaration of independence by Manchukuo was not spontaneous. This is based upon the erroneous conclusions of the Lytton Commission. It is extraordinary that the Assembly repeats this in face of emphatic denials by Japan.

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The former independence movement was subterraneous. Further, the Assembly seems to believe that Japan had a "Continental Policy" involving a political issue to the Manchurian question. This is a Chinese fabrication. The fact is that when the existing administrative organisations disappeared, spontaneous local organisation sprang up and the Japanese troops responsible for order co-operated with them, a proper and necessary step. The Assembly in assuming that no independence movement existed has attributed the independence which was actually proclaimed to the activities of Japanese civil and military officers, upon no solid grounds whatever.

There is no evidence that the people of Manchuria are hostile to the new State save 1,500 letters of dubious origin. Manchukuo has achieved a marked and healthy progress in the restoration of law and order. The 30,000,000 inhabitants are reaping the benefit of their labours, denied them in former days. Banditry has been suppressed. Those hostile elements, mainly remnants of Chang Hseuh-liang's troops, have been cleared out. Organised opposition only continues in Jehol. A sound budgetary system has been initiated, and progress has been noted in railway administration, commerce and industry. This could not have

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been done if the population were hostile or even sullenly submissive.

6. The Report advises international co-operation in the reconstruction of China, by the provision of technical assistance. China cannot be reconstructed "by any such superficial and inadequate means. It could only be rendered possible by some forceful international intervention of such a nature as would at once prove incompatible with the stipulations of the Nine Power Treaty regarding the administrative integrity and political independence of China. That is another proof that it is necessary to allow ample elasticity by taking due account of changing conditions in the application of the Nine Power Treaty and the Covenant of the League, as far as China is concerned."

PART III

IMPRACTICABILITIES OF THE RECOMMENDATIONS

1. Japan recognises the Covenant and the Pact of Paris as the basic principles of the settlement of international disputes as far as international relations in general are concerned. But elasticity must be allowed in the application of these principles to the abnormal conditions of China.

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2. As to the proposal for the withdrawal of troops, "the presence of Japanese troops outside the Railway Zone so far from being incompatible with legal principles has from the beginning been due entirely to the sheer necessities of self-defence and is in no way derogatory to the accepted principles regarding the settlement of international disputes. It is further to be noted that these Japanese troops are now responsible, in accordance with the Japan-Manchukuo Protocol, for the maintenance of peace and order in Manchuria."

It is true that by the Resolutions of September 30th and December 10th, 1931, Japan undertook to withdraw her troops, in so far as the lives and property of her subjects were secured, but their safety never was secured, and the undertaking has now become inapplicable on account of the independence of Manchukuo, and the Protocol of September 15th, 1932. If they were withdrawn it would be inevitable that unrest and disturbances would ensue in the evacuated territory. States not interested in the Far East can afford to uphold abstract formulæ as more important than peace. But Japan, vitally interested in the maintenance of peace and order in Manchuria cannot tolerate that that region should again be plunged into disorder. The gendarmerie

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systems proposed in the Lytton Report would not remove this apprehension. The security of such a vast territory has never been secured by gendarmerie. The proposition is absurd and cannot be put into practice. If the Japanese troops were withdrawn, the country would be quickly overrun by bandits and by Chang Hsueh-Liang's troops resulting in anarchy and disorder.

3. As to the Report's finding that the sovereignty over Manchuria belongs to China, this has been untrue since 1916. The enforcement of this fiction will never ensure the protection of Japan's rights and interests and the peace of the Far East. The Report repudiates any return to the *status quo*, so this fiction must also be repudiated. "Nor is it possible for Japan to admit any policy which is incompatible with the simple fact of the existence of the State of Manchukuo and the provisions of the Japan-Manchukuo Protocol."

4. With regard to the Ten Principles of the Lytton Report, the first nine cannot be practically applied, in the absence of the tenth "a strong central government in China."

5. Japan cannot accept the committee of negotiation proposed, because "it is directly contrary to the insistence of Japan not to

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allow any third party to intervene in the Manchurian problem.”

6. The Report states that League members, should abstain from recognising the present regime, and hopes that non-Member States will join in this policy. Japan considers the Assembly in attempting so to bind member and non-member States is exceeding its powers under Article XV. Such an action on the part of the League would prove an obstacle to the good understanding and friendly relations between nations on which peace depends.

C O N C L U S I O N

“The Japanese Government are fully convinced that the action of the Japanese army on the night of September 18th, 1931, and thereafter, has never exceeded the limits appropriate to measures of self-defence, and that Manchukuo has been founded by the spontaneous will of the people of Manchuria. Accordingly they consider that neither the action of the Japanese army in Manchuria, nor the conclusions of the League of Nations, the Nine-Power Treaty, the Pact of Paris, or any other international treaties.”

In view of the abnormal condition of China and the complexity of the Manchurian

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problem, and the anti-foreign character of the policy of the National Government it is impossible to think of applying to the present dispute the general formulæ applicable to an ordinary international question; and no procedure applied to it, nor any solution, can establish a precedent for ordinary cases.

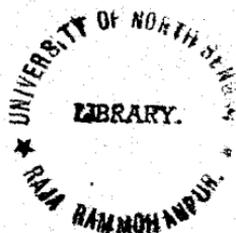
The Assembly plans are in themselves interferences with what it regards as Chinese sovereign rights.

“Unfortunately the Assembly through the refusal of its members to face facts, and their uncritical acceptance of the Report of the Commission of Enquiry, has only indulged in academic and inadequate principles. The Assembly stands, if it may so be said, for mere formulæ, Japan for solid realities.” Manchukuo is making good progress, a concrete proof of Japan’s contention that recognition and encouragement of the Manchurian State is the only road to a satisfactory solution and lasting peace in the Orient.

China is likely to remain a chronic anxiety. Communism has invaded it. A communised China would create an unequal problem for Europe and America. But a Manchuria free from all Chinese connections constitutes a barrier to Communistic danger in the Far East. The League should respect

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recognise the forces making for peace. Japan-Manchukuo Protocol is one of regional understandings provided for in Article XXI. At the same time Japan demands all desire for territorial gains or commercial advantages.



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