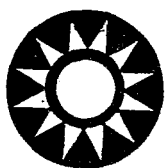


白皮書第五十六號（二十七年七月）



國際聯合會關於一九三七年七月七日蘆溝橋
事變以後中日爭議所通過之決議案及報告書

中華民國國民政府外交部編印



MG
K265.06
105



國際聯合會關於一九三七年七月七日蘆溝橋事變以後中日爭議所通過之

決議案及報告書

目次

1

- 一、大會於一九三七年九月廿八日所通過之決議案……………第三頁
- 二、大會於一九三七年十月六日所通過之決議案……………第五頁
- 三、經大會於一九三七年十月六日決議採納之報告書

(甲)遠東諮詢委員會報告書……………第七頁

附件——各國政府對於遠東諮詢委員會所發邀請書之復文

- (1) 德國……………第九頁
- (2) 中國……………第一〇頁
- (3) 日本……………第一一頁

(4) 澳大利亞..... 第一二頁

(乙) 遠東諮詢委員會小組委員會第一報告書..... 第一五頁

(丙) 遠東諮詢委員會小組委員會第二報告書..... 第三一頁

四、行政院於一九三八年二月二日所通過之決議案..... 第三五頁

五、行政院於一九三八年五月十四日所通過之決議案..... 第三七頁

一、大會於一九三七年九月二十八日所通過之決議案

本大會：

對於日本飛機在中國不設防之城市從事空中轟炸一事，予以緊急之考慮；

對於上項轟炸之結果，使包括鉅數婦孺在內之無辜人民喪失其生命一節，表示深刻之痛惜；

上項行動，業已引起全世界之恐怖與厭惡，特宣告爲無可原宥；

並嚴正的予以譴責。

3

（一九三七年九月二十八日上午通過）。

一一、大會於一九三七年十月六日所通過之決議案

本大會：

特將諮詢委員會關於中日爭議所提出之報告書多件，予以通過，作為本大會自身之報告書；

對於上述報告書中第二報告書所載各項建議，特予認可；關於所擬邀請一九二二年二月六日在華盛頓所訂九國條約各締約國之現為國際聯合會會員國者舉行會議一節，特請本大會主席採取必要之行動；

5

對於中國，表示精神上之援助，並建議國際聯合會各會員國應勿採取足以減弱中國抵抗力量，以致增加其在此次衝突中之困難之任何行動，並應就各該國對於中國之個別援助究能達如何程度一節，予以考慮；

決定本屆會議，現在休會，並授權主席，得因諮詢委員會之請求，再行召集會議。

(一九三七年十月六日下午通過)。

三、經大會於一九三七年十月六日決議採納之報告書

甲、遠東諮詢委員會報告書

大會前於一九三三年二月二十四日所設立之本諮詢委員會，曾遵照行政院一九三七年九月十六日之決議案舉行會議，對於中國所提請注意之局勢，予以考查。

本委員會選定拉特維亞 (Latvia) 外交部部長蒙德施氏 (M. V. Munters) 爲主席，並於本屆會期中，舉行會議五次。

本委員會隨即邀請爭議當事國中國與日本，以及德國與澳大利亞參與本委員會之工作，此項邀請，嗣經中國與澳大利亞予以接受，而爲德國與日本所謝絕。茲將該四國政府之復文，作爲本報告書之附件，一併陳閱。

關於日本飛機在中國實地空中轟炸一事，本委員會曾於一九三七年九月廿七日通過一決議案。該項決議案，嗣經遠大會，並經大會於一九三七年九月廿八日以全場一致之讚可，採爲大會自身之決議案。

本委員會并組織一小組委員會，(註一)其職責如左：

對於由中日兩國在遠東之衝突而造成之局勢，予以考查；

對於因此而引起之問題，予以研討；

將該小組委員會所視為適宜之建議，提供本委員會。

本委員會仍為受權向大會呈送報告書及提出建議之唯一機關。本委員會同時認為：如為該小組委員會所願，不妨許其逕將呈送本委員會之報告書，分送國際聯合會會員國及非會員國，以供參考。該小組委員會如已依此辦理，則該項報告書，自以概行公佈為合於實際。

本委員會業經決定將其議事紀錄呈送大會核閱。此項議事紀錄，並將以本報告書附件之方式，儘速公布。

本委員會會自該小組委員會收到報告書兩件，並會通過如左之決議案。

「本諮詢委員會特將其所附小組委員會於一九三七年十月五日所呈送之報告書兩件，採為本委員會自身之報告書，並經議決將該項報告書分送大會，聯合會各會員國及美利堅合眾國政府。」

本委員會謹向大會提出如左之議決草案，以備採納：

「本大會：

特將諮詢委員會關於中日爭議所提出之報告書多件，予以通過，作為本大會自身之報告書；

對於上述報告書中第二報告書所載各項建議，特予認可；關於所擬邀請一九二二年二月六日在華盛頓所訂九國條約各締約國之現為聯合會會員國者舉行會議一節，特請本大會主席採取必要行動；

對於中國，表示精神上之援助，並建議聯合會各會員國應勿採取足以減弱中國抵抗力量，以致增加其在此次衝突中之困難之任何行動，並應就各該國對於中國之個別援助究能達如何程度一節，予以考慮；

決定本屆會議，現在休會，並授權主席，得因諮詢委員會之請求，再行召集會議。」

(註) 該小組委員會，由如下各國構成：拉特維亞(主席)，澳大利亞，比利時，英國，中國，厄瓜多，法蘭西，紐西蘭，和蘭，波蘭，瑞典，蘇聯，美國——美國之參加條件，與其參加諮詢委員會之條件完全相同。

附件

各國政府對於諮詢委員會所發邀請書之復文

(1) 德國

致秘書長：

德國政府對於 貴秘書長九月二十一日來電之答復，本人已於本日會談中轉達 貴秘書長，茲謹予以證實。
本人茲遵本國政府訓令，將德國政府艱難參與對於遠東局勢，現正開會考慮之諮詢委員會之工作之理由，轉達 貴秘書長。

克羅爾(簽字)

一九三七年九月二十三日，

日內瓦。

(2) 中國

致秘書長：

接准

貴秘書長一九三七年九月二十二日來函，以諮詢委員會名義，邀請中國政府參與該委員會之工作，業經閱悉。

本代表已將上項邀請書轉呈本國政府，茲遵復訓，通知

貴秘書長，中國政府樂予接受。

(3) 日本

致祕書長：

接准

貴祕書長九月二十一日來電，邀請本帝國政府參與諮詢委員會之工作，業經閱悉，茲奉復如左：

以中日兩國之協和的合作，維持遠東和平，原為本帝國政府之歷來主旨，並曾從事種種努力，以促其成，無如中國政府却以反對日本及煽動反日活動為其國策之基礎；種種搖惑行動，繼續遍行全國，致釀最近之不幸事件。因此本帝國政府惟有希望中國政府鑒於目前情形，從速改變其態度。

關於本事件之解決，本帝國政府前已屢次聲明，現仍堅信，凡涉中日兩國之問題，其公正，持平，以及切乎實際

出席行政院代表

出席大會首席代表

顧維鈞(簽字)

一九三七年九月二十三日，

日內瓦。

之解決辦法，當能由兩國自行求得之。

對於國際聯合會之政治活動，本帝國政府現無改變其從來行動路線之理，故對於諮詢委員會此次邀請，歎難予以接受。

日本外務省大臣廣田（簽字）

一九三七年九月二十五日

東京

（4）澳大利亞

致秘書長：

前准

貴秘書長 月二十二日來函，邀請英王陛下在澳大利亞之政府參與前依大會一九三三年二月二十四日決議案所設立之諮詢委員會之工作，本人前於同月廿日以上項來函業經收到一節通知

貴秘書長之時，並曾聲明：上項來函，已轉呈本國政府鑒核，貴秘書長當能記憶。

茲奉本國政府復訓，對於參與諮詢委員會工作之邀請，予以接受。

布魯斯(簽字)

一九三七年九月二十七日

日內瓦

乙、遠東諮詢委員會小組委員會第一報告書

本小組委員會對於遠東爭議之歷史的暨根本的原因，不擬有所論列。即如本小組委員會以爲滿洲事變，既備載於一九三三年二月二十四日大會所通過之報告書中，自無追述之必要。且於事變之演進，即在軍事行動，交涉，或政策之範圍以內，亦不欲詳加敘述。良以雙方關於此節所陳述之事實，既互相抵觸，即欲根據可資應用之材料，詳加敘述，亦不可能，况日本自一九三五年三月廿八日以後既不復爲聯合會會員國，不允派遣代表出席本小組委員會，此節尤不可能。

無論如何，詳細之研究亦非必要。當一九三七年七月初，中日兩國任何一方，並未揭示兩國關係中有不能和平解決之事端，本小組委員會所須爲者，即將中日事件自一和平關係之狀態，演進至雙方大軍衝突之情勢，加以敘述及評定。

本小組委員會於是在可應用之時間以內，得以歷敘事件之重要演變；研討當事雙方條約上之義務；并擬具結論，載於本報告書之篇末。

當一九三七年七月初，華北日本駐軍約有七十人。此項軍隊之駐屯，係根據一九〇一年九月七日中國與在北京設有使館之各國締結之議定書（及其附件）。依據該項辦法，中國承認各國有權在北京使館界內常川派駐衛隊，并得駐紮軍隊於指定地點十二處（註一）以維持北京進海之交連。依據一九〇二年七月十五日至十八日所商定之補充辦法，駐紮於各地點之外國軍隊「有權舉行田野演習與來復槍實習等事，——除實彈演習外，不必通知中國當局。」

日本以外各國（註二），現在北平（即北京）及依據一九〇一年九月七日議定書所規定地點中某某等地點，僅駐有極少數之部隊。本年七月初，駐華北英軍之人數，為一千零七名；此數尚包括使館衛隊二百五十二名在內。與此類似者，駐河北法國軍隊之軍力，計自一千七百名至一千九百名不等，大部駐於天津，其餘則分駐於山海關，秦皇島，塘沽，及北京，駐紮於北京之部隊，即為使館衛隊。目前該國軍隊之總數，為兵士一千六百名，軍官六十名，使館衛隊一百二十名。

滿洲及熱河境內之事態及演變而外，日本在華北之政治活動，日本軍隊較其他各國軍隊之大為增多，其操演與演習之頻繁，（註三）在在均使中國人民感覺不安。當此空氣緊張之際，竟於七月七日發生事變，此次事變，非與前次所發生者大相懸殊，第為此次日軍在華北軍事行動之導源耳。

此次事變之肇端，係在北平（即北京）西南十三公里之蘆溝橋。中國駐軍與在該處舉行夜間演習之日軍發生衝突。

關於事變之說明，華方日方，各異其說。

依據日方說明，係由中國第二十九軍之士兵開槍而起，中日雙方軍事當局，於七月八日午前約定暫時停止敵對行為，俾雙方軍事當局得以立即開始交涉，從事於該事變之解決；乃中國士兵既不遵守此約，而於翌日所訂中日軍隊互相撤退之辦法，亦不予遵守；中國軍隊此種侵略態度，實使日本軍事當局與天津市長暨河北省保安處處長於七月十一日所訂解決事變之協定（註四），亦無效果。

依據華方說明，七月七日夜間，日軍舉行演習時，藉口有一兵士失蹤，要求准其入宛平（蘆溝橋）城內搜查；此項要求，當被拒絕，日軍遂以步砲兵攻擊宛平（蘆溝橋）；中國駐軍予以抵抗；情勢之擴大，並非由於中國軍隊之行動，乃係由於日軍之行動，因中國軍隊在日軍未開始撤退以前已遵照撤兵之約定辦理，而日軍於增得大批援軍以後，又復向宛平（蘆溝橋）區域進攻，擴展其軍事行動於北平之近郊。中國政府並不反對七月十一日中國地方當局與日軍所成之約定所訂各項條款，但日本方面，不獨於該項原有約定之外，擅添補充辦法，且不顧互撤軍隊之約定，而擴展其軍事行動於華北。

中日雙方對於事變之說明顯不相符各點，姑置不論，所堪注意者，當地方當局正在進行就地解決之時，亦即中日兩國政府正在進行商洽，日方堅持就地解決藉以確立日方在華北之勢力，不欲南京過問之時，大規模軍隊之調動，竟使情勢愈趨惡劣。根據華方報告，日方迅即自滿洲增調援軍於天津及北平近郊之結果，截至七月十二日為止，日軍人數，已超過二萬人，日本空軍實力，已進達飛機一百架之多。又據報告，中國中央政府之軍隊，亦正向北方移動。

關於中國中央軍隊向北方調動一事，日本政府曾向中國政府提出警告，正與日方勸告南京不干涉七月七日事變之解決一事，同出一轍，日方援引一九三三年五月三十一日塘沽停戰協定暨華方曾有異議之一九三五年六月十日何梅協定，警告南京政府，謂調遣中央軍隊開入河北省境將引起嚴重之結果。

七月月底，當地方談判猶在進行之際，敵對行爲，已在華北開始。日軍旋佔領北平，天津，并擄取聯繫平津與華中之鐵路，親日之新政府，亦在河北成立。

日軍嗣沿平綏路，經過張家口，大同而向西進展，并沿冀，察邊區，攻取在北平西北八十公里之南口，俾日本調自滿洲之軍隊易於侵入內蒙。

日軍在華北之軍事行動，激起中國活躍之反感。日本政治家所宣稱。中國必須屈服之主張，東京所探緊急財政辦法

，以及留華日僑之撤退，使中國政府及人民斷定日本決以武力擊破中國之抵抗力量。

迨八月第二星期之末，上海地方，因中國與各國之利益交相密織，雖經力請將上海劃出於敵對行為範圍若干距離以外，然卒變爲第二軍事行動場所。中國政府暨人民之上述斷言。於茲益信。

追憶一九三二年之上海戰事，以同年五月五日協定之簽訂而得以結束。按該協定第二條規定，中國軍隊，在本協定所涉及區域內之常態恢復，未經決定辦法以前，留駐其現在地位。當出席上海會議之中國代表團於接受上海停戰協定時，特加聲明，謂：茲了解「本協定並無含有對中國軍隊在中國領土內之移動受任何永久限制之意。」

日本外相於一九三七年九月五日議會席上演辭中，敘述八月九日上海事變發端之情形及翌日所發生之困難如次：

「……八月九日，海軍陸戰隊大山中尉暨齋藤水兵，在上海爲中國保安隊刺死。

「日本雖在當時，仍堅守和平，力請撤退保安隊，并拆除違反一九三二年停戰協定一切已成之防禦工事，以求解決，乃中國於利用種種藉口，拒絕我方要求之外，復增援軍隊，在停戰區域內，多築防禦工事，終於向日軍開始不當之攻擊。

「因此，我政府以職責所在，派遣少數海軍援軍赴滬，作爲保護上海日人之緊急辦法。」

廣田外相於敘述各國力請將上海劃出於敵對行爲範圍以外之後，繼稱：「八月十三日午後，中國軍隊，既已聚集於上海一帶，遂實行進攻」。

上述各節，可與中國政府於八月三十日送達國際聯合會之聲明，比照而觀。

中國方面所述之八月九日事變如次：

「日本海軍軍人，不顧中國方面之警告，企圖行近上海附近之中國軍用飛機場，因此發生衝突，死日本海軍軍官一人，水兵一人，中國保安隊一人。」

中國代表團，除於聲述中國政府迭經令行上海地方當局嚴防任何意外事件之發生外，并曾進述該國代表團在簽訂一九三二年五月五日協定時所爲之上文已予述及之聲明，堅持中國軍隊在中國領土以內之移動，不能認爲係破壞該項協定之行爲。

中國方面來文，并以下列字樣，敘述上海敵對行爲之開始。

「日本在不足四十八小時以內，調集軍艦約三十艘於上海，并將其在上海之軍力，增加數千人之衆，同時復向中國當局提出要求，企圖撤除或削弱中國之防禦。距事變發生四日後，原所預期之日方攻擊，果於八月十三開始。

自此以後，劇烈戰爭，即在上海四週進行。七月初，留駐於上海公共租界及越界築路地方之日軍，總計為四千人。迨九月底，據中國當局之估計，日本援軍之在唐集於吳淞一帶日艦三十八艘掩護之下登陸者，竟達十萬人以上。

在過去數星期中，日本軍事行動之進展，不限於揚子江流域以內，除其他軍事行動外，其空軍轟炸中國之首都，固屬數見不鮮，即中國沿海及內地各地方，亦常遭其空中轟炸。

目前，除日本陸軍在華北及華中進行軍中行動，及其空軍轟炸商港及內地城市之外，日本海軍艦隊，復一面廣續與陸軍合作，尤於上海為然，一面巡防中國沿海地方，阻止中國船隻將接濟輸入中國，其中不少中國船隻，已被沉沒（註五）。

溯自七月七日以降，日本所遇抵抗，方與未艾，仍不斷加緊進行其軍事行動。調動之軍隊，日益增多；使用之軍器，亦日益犀利。就華方估計，日軍之在上海者，計有十萬人。其運用於中國各地方者，已在二十五萬人以上。

關於日本空軍行動一事，諮詢委員會曾就其對中國不設防城市施行空中轟炸一節，於九月廿七日決議中，加以譴責。此項決議案，并經大會予以採納（註六）。

本小組委員會之當前目的，爲就現今局勢之事實部份，予以研討，故於中日各條約之對於通商事項暨留華日僑應享領事裁判權之法律地位以及其他類似事項有所規定者，似無論及之必要。其與本小組委員會當前目的有關之主要條約，僅有三種，即一九〇一年九月七日之最後議定書，一九二二年在華盛頓所訂之九國條約，暨一九二八年之巴黎公約。他如一九〇七年十月十八日海牙公約之第一號（註七），其性質雖略有不同，亦可納入上項條約之列。此外，中日地方當局，復曾先後就地訂有種種，即數目亦無從確定之雙面協定。此項協定之內容如何，以及其效力在解釋上又如何，在在均有爭執。然而此類協定，固不能影響或超越中日任何一方對上述多面條約所負之義務也。

依據一九〇一年九月七日議定書及附屬文件，日本連同某某其他國家，爲維持北平使館通海之交通，有沿北甯鐵路在河北省境內某某地方駐紮軍隊之權利。該項駐軍并有權舉行田野演習及來復槍實習等事，除實彈演習外，不必通知中國當局。

依據一九二二年九國間關於中國事件應適用各原則及政策之條約，中國以外之各締約國，於協定各事項中，約定尊重中國之主權與獨立暨領土與行政之完整，給予中國以完全無礙之機會，以發展並維持一鞏固有力之政府，締約各國（

包括中國在內）并約定：無論何時，遇有某種情形發生，締約國中之任何一國認為牽涉本條約規定之適用問題，而該項適用宜付諸討論者，有關係之締約各國，應完全坦白互相通知。

依據一九二八年巴黎公約，締約各國以各該國人民之名義，鄭重聲明：彼等證實特戰爭以解決國際糾紛，并斥責以戰爭為施行與彼此有關之國家政策之工具。締約各國并約定：各國間凡有爭端或衝突發生，不論性質若何，因何發端，祇可以和平方法解決或調處之。

三

本報告書第一部所載事實，即自表面上觀之，已足構成日本違背其對於中國及其他國家在該項條約上所負義務之行為。在上述情形之下，日方以陸、海、空軍在中國全境從事敵對行為，即自表面上觀之，亦已與尊重中國之主權與獨立暨領土之完整，以及與中國發生爭端，不論性質或發端如何，祇以和平方法解決之之義務，不相符合。按日軍在中國所處地位，必須能說明為自衛上之必要辦法（所謂自衛，包括依法留駐中國領土之日軍與日僑之防衛在內），始能使之與日本在條約上所負義務不相抵觸。

當事雙方在爭議演變期中，截至現在為止，關於其態度暨政策所發表之聲言：必可資為足以判斷本問題資料之一。

中國之態度，於其行政院長蔣介石將軍在一九三七年七月十七日所發表之演詞中明白表示。在該項演詞中，蔣氏鄭重聲言：民族自存與國際共存兩點，為中國國民政府之對外政策。……中國不求戰爭，僅為自國生存而應戰。反之。中國仍力求和平。然究為和平，抑係戰爭，全繫於日本軍隊之行動。蔣氏繼陳述四點，作為和平解決最低限度之立場。其四點為：

- (一)任何解決，不得含有侵害中國主權與領土完整之條款；
- (二)冀察行政組織，不容任何不合法之改變；
- (三)中央所派地方官吏，不能任人要求撤換；
- (四)第十九軍現在所駐地區，不能受任何約束。

按七月十九日中國外交部遞交駐南京日本大使館之備忘錄中，中國政府「重新提議雙方約定一確定之日期，在此日期，雙方同時停止軍事調動，並將軍隊各撤回原地。」外交部并明白聲言：為求事變之解決，凡國際公法或國際條約所公認之任何和平方法，如兩方直接交涉，斡旋，調解，及公斷等，中國政府均準備予以接受。

至於日本對於爭議之一般態度，則見諸七月廿七日日本首相所發表之聲言。當其在會議中答復質詢時，曾稱：

「日本在中國毫無領土野心。倘日本果有此項企圖，如華方之所明言。則日軍早經佔領華北全部矣。中國政府暨各國自當認識此點。日本所需要者，中國之合作，非中國之領土也。余所謂合作，非謂使中國利益受日本利益之支配，乃謂兩國基於平等互惠之原則，共謀遠東文化與繁榮之發展耳。」

日本外相廣田氏在九月五日議會演詞中宣稱：日本政府之政策，向為就地解決，與不擴大事態，并盡種種努力，以謀迅速之解決。

九月十五日，日本外務省發言人宣稱：日本政府根據就地解決及不擴大事態之政策，業經盡力之所能，以期得有迅速之解決。

上述各項聲言，似揭示雙方於事變初起之際，均信該事變可就地獲得和平之解決，乃此項結果，卒不可得。

所值得注意者，日本官方聲稱：中國軍隊之調動暨中國政府之侵略意向，終使日本政府和平之意願成爲泡影。反之，中國官方聲明，給以同樣攻訐，加諸日本，——即日軍之侵入及日本政府之侵略意向，竟使一地方事件變爲重大之慘劇。

事變發生未幾，日本於爲取地方解決之外，似復抱有將中日兩國間一切爭執問題予以解決之決心。

七月十一日晨間，日本內閣會議所擬之聲言，於同日夕間由外務省發表。該項聲言之旨趣，爲日本政府對於華北之治安與秩序，雖切望予以維持；然仍擬採取一切必要辦法，將軍隊調往該處。

近衛公爵於七月廿七日所發表之演詞中，載有如下之聲言：

「余以爲不僅所有對華問題，必須就地解決，吾人且須更進一步將中日兩國間一切關係，獲得根本之解決。」

廣田氏於九月五日在會議中聲稱：「日本政府之基本政策，意在調整中、日、一滿」，三國之關係，以謀共同之繁榮與幸福。中國既漠視我方之真意，而調動大軍，反抗吾人；吾人對於此項動員，不得不以武力相對抗……吾人確信根據自衛權暨正義，吾國對於此種國家（指中國）決予以徹底之打擊，使其對於己身之誤認有所反省……日本帝國唯一可採之辦法，厥爲對中國軍隊，予以上述之打擊，使其戰鬥意志，全行喪失。

其在華方，蔣介石將軍於七月三十日發表聲言，載有如下之語句：

「余在廬山所爲之宣告，及所舉解決蘆溝橋事變最低限度四點，絕無可以變更。今既臨此最後關頭，豈能復視平津之事爲局部問題，聽任日本之宰割，或更製造傀儡組織。吾人惟有發動整個之計劃，領導全國，奮鬥到底。總之，政府爲應付日本侵略所採之政策，始終一貫，毫不變更，即保存中國領土之完整與政治之獨立是也。」

日本政府歷經聲述其「和平解決」與「中日間協和的合作」之願望。但始終堅持此種結果，應僅由中日雙方互商而得，不容有第三者之干涉。以是在七月二十九日預算總會中，有建議政府應發表堅決聲明預防第三國之干涉者，日本外相答稱：此種干涉，並非彼預料所及，倘竟有此項提議發生，政府必概予拒絕。

又廣田氏對於諮詢委員會邀請參加其工作一事，曾於九月二十五日復電拒絕，內稱：關於本事件之解決，本帝國政府前已歷次聲明，現仍堅信，凡涉及中日兩國之問題，其公正，持平，以及切乎實際之解決辦法，當能由中日兩國自行求得之。

至於中國之態度，中國代表團在大會暨委員會中所爲之聲言，均可資爲參考。而前述七月十九日之備忘錄，仍足繼續代表中國政府之政策，似不容疑。

四 結論

兩國對於爭議之根本原因，以及所以引起敵對行爲之事變，均持有互相懸殊之見解。

然日本業以強有力之軍隊侵入中國領土，并將包括北平在內之中國廣泛區域，置於軍事控制之下；日本政府并已採取海軍行動，斷絕中國船舶沿中國海岸線之航行；而日本空軍正在中國各地大施轟炸；均爲不可申辯之事實。

本小組委員會根據所獲事實，加以檢討之後，不得不認爲日本陸、海、空軍對中國所實行之軍事行動，實與引起衝突之事件，全不相稱；并不得不認爲此項行動，對於日本政治家所聲明日方政策之目標，即所謂中日雙方之友好合作，不能予以便利或促進；更不得不認爲此項行動，不能依據現行合法約章或自衛權以資辯護，且係違背日本在一九二二年二月六日所簽訂九國條約，及一九二八年八月廿七日所簽訂巴黎非戰公約下所負之義務。

(註一)所指定之處，計爲黃村、廊坊、楊村、天津、軍糧城、塘沽、蘆台、唐山、漢洲、昌黎、秦皇島、山海關。

(註二)自一九二四年起，蘇聯已將乘俄羅斯前依一九零一年議定書而取得之在華駐兵權，故現無駐軍。

(註三)就事實方面而言，日本大軍館，例於每年夏季，在北平西郊舉行演習，至其他各國之使館衛隊，則似無從事

於「狹義的演習」之習慣，其所從事者，僅限於郊外毛瑟槍打靶演習及步伐練習。

(註四)此事之日方說法，見同盟社通訊稿。其所敘述之七月十一日協定，由左列三點構成之：

(1)二十九軍派代表道歉，並懲辦直接負責人員；

(2)中國軍隊自蘆溝橋撤退而代以保安隊，俾中日軍隊間保有充分之距離；

(3)以澈底辦法取締藍衣社及共產黨之活動。

(註五)統率日本海軍之長谷川海軍中將，於一九三七年八月二十五日在上海發表如下之佈告：

「茲於八月二十五日下午六時起，對中國海岸自北緯三十二度四分，東經一百二十一度四十四分，至北緯二十三度十四分，東經一百一十六度四十八分之區域內，宣告予以封鎖，取締中國船隻航行。

但第三國之船隻及日本船隻，仍得於封鎖區域內自由通過。」

迨九月五日，東京海軍省復宣告：自是日正午起，中國之海岸全線，均予封鎖，取締中國船隻航行。但青島及第三國之租借地，不在此限。

(註六)大會第六委員會於既已聽取中國代表之聲述以後，曾擬一報告書，籲請有關各方，於武裝衝突中，對於代表文化最高水準之美術建築物及文化機關，應予顧及。此項報告書，嗣經大會於九月三十日會議中予以採納。

(註七)一九零七年十月十八日海牙公約之第一號，業經中日兩國予以簽字及批准，該公約第一條規定：各締約國「爲減少各國於彼此關係間訴諸武力之可能起見，」約定「各盡最善之努力，使一切國際爭議，得以和平解決」。該公約復建議：應視案件之情形如何，適用調解，公斷，或國際調查團等辦法。

丙、遠東諮詢委員會小組委員會第二報告書

一、中國目前之局勢，及日本在條約上所負之義務，業經在本小組委員會所呈送於諮詢委員會之報告書中，加以探討。該項報告書並曾指出：日本所探行動，為違反日本在條約上所負之義務，不能認為正當。

二、建立以國際法為各國政府所行為之真正準則之理解，及在有組織之人民相互往來間，應維持對於條約義務之尊重，乃對於各國均有重大利害關係之事。

三、中國目前之局勢，不僅關係衝突中之兩國，且對於一切國家，均有多少關係。許多國家均已在其人民生命及物質利益方面，直接蒙受影響，而尤較重要者，厥維所有國家均必感覺和平之當予恢復與維持。此實為國際聯合會所以存在之根本目的。故國際聯合會依照盟約及條約上之現存義務，以謀迅速恢復遠東和平之職責與權利。

四、本小組委員會已首先研究在此種情形之下，盟約對於國際聯合會各會員國所加之義務。

五、諮詢委員會，係依照盟約第三條(第三項)之廣泛規定而設立。該條授權大會於會議中處理屬於國際聯合會舉動範圍以內或關係世界和平之任何事件。

六、上項條文，對於大會之行動，未設任何限制，而中國除其他條文外所援引之第十一條，復規定「聯合會得採取任何

視為適當而有效之行動，以保持各國間之和平」。

七、本小組委員會，已就局勢，予以考慮，以冀決定何種行動為適當而有效。

八、遠東目前之爭議，牽涉日本之違反條約義務，業已指出如上，故不能認為僅能由中日兩國以直接方法予以解決。反之，必對整個局勢予以充分之考量；其尤要者，為對於與盟約及國際法原則現行條約相符之任何足以重樹和平之適當辦法，必須予以探討。

九、本小組委員會深信：即在此次爭議之現階段中，於研求其他可能的辦法以前，仍當作再進一步之努力，冀以彼此同意方式，恢復和平。

十、聯合會在謀以談判方式解決目前爭議之際，不能不顧及爭議之一造為非會員國，且對諮詢委員會之工作，曾明白表示關於政治事項拒絕與聯合會合作之事實。

二、本小組委員會查依據在華盛頓所訂九國條約之規定，中國以外之各締約國，於協定各事項中，曾約定尊重中國之主權與獨立；暨領土與行政之完整；締約各國，包括中國在內，并約定無論何時，如有涉及適用該約規定之局勢發生而此項適用宜付諸討論者，有關係之國家，應完全坦白互相通知。因此，本小組委員會認為：大會以聯合會名義所

應採取之第一步驟，似爲邀請聯合會各會員國中之同時爲該九國條約之締約國者，於最短期間內，發動此項商討。

本小組委員會提議上述會員國，應即開會決定實行此項邀請之最善與最速之方法。本小組委員會並希望關係各國，能與其他在遠東有特殊利益之國家聯合工作，尋求以彼此同意之方式，結束此次爭議之方法。

三、如此從事商討之各國，或欲隨時將其建議經由諮詢委員會轉向大會提出。本小組委員會建議：大會不應閉會，並應宣告聯合會對於上述任何建議，願考量予以最充分而切乎實際之合作。諮詢委員會，無論如何，應於一個月以內，再行開會一次（地點或在日內瓦或在他處）。

三、在所建議各項行動尚未得有結果以前，諮詢委員會應請求大會對於中國，表示精神上之援助，並建議聯合會各會員國應勿採取足以減弱中國抵抗力量，以致增加其在此次衝突中之困難之任何行動，並應就各該國個別援助中國究能達如何程度一節，予以考量。

四、行政院於一九三八年二月二日所通過之決議案

行政院對於遠東情勢，既經加以考慮，

知悉中國境內之敵對行為仍在演進，且自本院上次會議以降，轉趨劇烈，引為遺憾；

當此中國國民政府在政治上經濟上努力建設，卓著功績之際，而發生此種惡劣情勢，尤堪痛惜；

追憶大會於一九三七年十月六日決議中，曾經表示予中國以精神上之援助，并建議聯合會各會員國應勿採取足以減

弱中國抵抗力量，以致增加其在此次衝突中之困難之任何行動，并應就各該國個別援助中國究能達如何程度一節，予以
考量；

35

爰喚起聯合會各會員國對上述決議最嚴重之注意；

深信凡在行政院派有代表之國家，對於此種情勢，自感特殊關係，應不坐失時機，而與具有同樣關係之其他國家，

協商、研討任何進一步切實可行之辦法，以謀遠東爭議公允之解決。

五、行政院於一九三八年五月十四日所通過之決議案

行政院業經聆悉中國代表關於遠東情勢暨中國國防需要之聲言：

一、懇切敦促聯合會各會員國對於大會暨行政院前此關於此事之決議案內所爲之建議，盡其最大之努力，使之發生效力，倘或收到中國政府依據該項決議案所提出之請求，並請予以嚴重而同情之考量，

中國英勇抗戰，以維護其因日軍侵入而受威脅之獨立與領土之完整，其人民因此感受痛苦，爰對中國表示同情。

二、追憶使用毒氣，爲國際公法所斥責之戰爭方法，此種方法，倘竟有使用情事，決不能逃世界文明國家之譴責，用是請求各國政府，就其所處地位，可將關於此事所得之任何情報，通知聯合會。

V. RESOLUTION ADOPTED BY THE COUNCIL
ON MAY 14TH, 1938.

"The Council,

"Having heard the statement by the representative of China on the situation in the Far East and on the needs of the national defence of China :

"I.

"Earnestly urges Members of the League to do their utmost to give effect to the recommendations contained in previous resolutions of the Assembly and Council in this matter, and to take into serious and sympathetic consideration requests they may receive from the Chinese Government in conformity with the said resolutions;

"Expresses its sympathy with China in her heroic struggle for the maintenance of her independence and territorial integrity, threatened by the Japanese invasion, and in the suffering which is thereby inflicted on her people.

"II.

"Recalls that the use of toxic gases is a method of war condemned by international law, which cannot fail, should resort be had to it, to meet with the reprobation of the civilized world; and requests the Governments of the States who may be in a position to do so to communicate to the League any information that they may obtain on the subject."

IV. RESOLUTION ADOPTED BY THE
COUNCIL ON FEBRUARY 2ND, 1938.

"The Council,

"Having taken into consideration the situation in
the Far East,

"Notes with regret that hostilities in China continue
and have been intensified since the last meeting of the
Council,

"Deplores this deterioration in the situation the
more in view of the efforts and achievements of the
National Government of China in her political and
economic reconstruction,

"Recalls that the Assembly, by its resolution of
October 6th, 1937, has expressed its moral support for
China and has recommended that Members of the
League should refrain from taking any action which
might have the effect of weakening China's power of
resistance and thus of increasing her difficulties in the
present conflict, and should also consider how far they
can individually extend aid to China,

"Calls the most serious attention of the Members
of the League to the terms of the above-mentioned
resolution,

"Is confident that those States represented on the
Council, for whom the situation is of special interest,
will lose no opportunity of examining, in consultation
with other similarly interested Powers, the feasibility of
any further steps which may contribute to a just settle-
ment of the conflict in the Far East."

12. The States thus engaged in consultation may at any stage consider it desirable to make proposals through the medium of the Advisory Committee to the Assembly. The Sub-Committee recommends that the Assembly should not close its session and should declare the League's willingness to consider co-operation to the maximum extent practicable in any such proposals. The Advisory Committee should in any case hold a further meeting (whether at Geneva or elsewhere) within a period of one month.

13. Pending the results of the action proposed, the Advisory Committee should invite the Assembly to express its moral support for China and to recommend that Members of the League should refrain from taking any action which might have the effect of weakening China's power of resistance and thus of increasing her difficulties in the present conflict, and should also consider how far they can individually extend aid to China.

8. It cannot be admitted that the present conflict in the Far East, which has been shown to involve an infringement of Japan's treaty obligations, is one which can as of right only be settled by direct methods between the Chinese and Japanese Governments. On the contrary, the whole situation must be taken into the fullest consideration and in particular any appropriate means by which peace may be re-established, in conformity with the principles of the Covenant and of international law and with the provisions of existing treaties, must be examined.

9. The Sub-Committee is convinced that even at this stage of the conflict, before examining other possibilities, further efforts must be made to secure the restoration of peace by agreement.

10. In attempting a settlement, by negotiation, of the present conflict, the League cannot lose sight of the fact that one party is not a member of the League and has, in relation to the work of the Advisory Committee, explicitly declined to co-operate in political matters with the League.

11. The Sub-Committee notes that under the Nine-Power Treaty signed at Washington, the contracting Powers, other than China, agreed, *inter alia*, to respect the sovereignty, the independence, and the territorial and administrative integrity of China, and that all contracting Powers, including China, agreed that, whenever a situation should arise which involved the application of the stipulations of the Treaty and rendered desirable the discussion of such application, there should be full and frank communication between the Powers concerned. It appears, therefore, to the Sub-Committee that the first step which the Assembly should take, in the name of the League, would be to invite those Members of the League who are parties to the Nine-Power Treaty to initiate such consultation at the earliest practicable moment. The Sub-Committee would suggest that these Members should meet forthwith to decide upon the best and quickest means of giving effect to this invitation. The Sub-Committee would further express the hope that the States concerned will be able to associate with their work other States which have special interests in the Far East to seek a method of putting an end to the conflict by agreement.

C. SECOND REPORT OF THE SUB-COMMITTEE OF THE FAR-EAST ADVISORY COMMITTEE.

1. In the report which the Sub-Committee has already submitted to the Advisory Committee, the facts of the present situation in China and the treaty obligations of Japan have been examined. That report shows that the action taken by Japan is a breach of Japan's treaty obligations and cannot be justified.

2. The establishment of the understandings of international law as the actual rule of conduct among Governments and the maintenance of respect of treaty obligations in the dealing of organised peoples one with another are matters of vital interest to all nations.

3. The present situation in China is a matter of concern not only to the two States in conflict but, to a greater or lesser degree, to all States. Many Powers are already directly affected in the lives of their nationals and in their material interests. But even more important than this is the interest which all States must feel in the restoration and maintenance of peace. This, indeed, is the fundamental purpose for which the League exists. It has thus the duty as well as the right to attempt to bring about a speedy restoration of peace in the Far East, in accordance with existing obligations under the Covenant and the treaties.

4. The Sub-Committee has considered in the first place the obligations which the Covenant places in such circumstances upon Members of the League.

5. The Advisory Committee has been set up under the wide terms of Article 3 (3) of the Covenant, which authorises the Assembly to deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

6. This Article place no limit upon the action of the Assembly, and Article 11 which, *inter alia*, has been invoked by China provides that "the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

7. The Sub-Committee has examined the situation with a view to determining what action would be "wise and effectual."

as to the incident which led to the first outbreak of hostilities.

It cannot, however, be challenged that powerful Japanese armies have invaded Chinese territory and are in military control of large areas, including Peiping itself; that the Japanese Government has taken naval measures to close the coast of China to Chinese shipping; and that Japanese aircraft are carrying out bombardments over widely separated regions of the country.

After examination of the facts laid before it, the Committee is bound to take the view that the military operations carried on by Japan against China by land, sea and air are out of all proportion to the incident that occasioned the conflict; that such action cannot possibly facilitate or promote the friendly co-operation between the two nations that Japanese statesmen have affirmed to be the aim of their policy; that it can be justified neither on the basis of existing legal instruments nor on that of the right of self-defence, and that it is in contravention of Japan's obligations under the Nine-Power Treaty of February 6th, 1922, and under the Pact of Paris of August 27th, 1928.

of Peiping and Tientsin as a matter for local settlement, or that the Japanese army could be tolerated to run rampant in the North or to set up another puppet government there. The only course open to us now is to lead the masses of the nation, under a single national plan, to struggle to the last. In short, the Government's policy *vis-a-vis* Japanese aggression remains the same and has not changed. It is to preserve China's territorial integrity and political independence."

The Japanese Government has on a number of occasions stated its desire for a peaceful settlement and for harmonious co-operation between Japan and China. It has, however, insisted throughout that this result must be achieved by China and Japan alone, without any interference from third parties. Thus, in reply to a suggestion in the Budget Committee of July 29th that the Governments should make a firm statement to forestall the intervention of third Powers, the Japanese Minister for Foreign Affairs replied that he did not anticipate intervention, and that were any such proposals to be made, the Government would not fail to reject them.

Further, in his telegram of September 25th declining the Advisory Committee's invitation to take part in its work, M. Hirota declared that as regards the settlement of the present affair the Imperial Government, as it has stated on many occasions, is firmly convinced that a just, equitable and practical solution of the questions concerning Japan and China can be found by the two countries.

As regards the attitude of China, reference may be made to the statements made to the Assembly and the Committee by the Chinese Delegation. There seems no reason to doubt that the memorandum of July 19th, which has already been quoted, continues to represent the policy of the Chinese Government.

IV.

CONCLUSIONS.

It is clear that the two countries take very different views as to the underlying grounds of the dispute and

At a comparatively early stage, it began to appear that Japan, in addition to reaching a local settlement, was also determined to obtain a settlement of all the questions at issue between China and Japan.

On the evening of July 11th, a statement prepared at the Cabinet meeting earlier in the day was issued by the Japanese Foreign Office. The effect of the statement was that, though anxious to maintain peace and order in North China, the Japanese Government intended to take all necessary measures for despatching military forces to that region.

On July 27th, Prince Konoye made a speech in which the following statement occurred:

"I think that not only must problems with China be settled locally but also we must go a step farther and obtain a fundamental solution of Sino-Japanese relations."

M. Hirota said in the Diet on September 5th that "it is hardly necessary to say that the basic policy of the Japanese Government aims at the stabilisation of relations between Japan, 'Manchukuo' and China, for their common prosperity and well-being. Since China, ignoring our true motives, has mobilised her vast armies against us, we cannot do otherwise than counter the mobilisation by force of arms. . . . We firmly believe that it is in accordance with the right of self-defence as well as with the cause of righteousness that our country is determined to deal a decisive blow to such a country (China), so that it may reflect upon the error of its ways. . . . The sole recourse open to the Japanese Empire is to administer the foregoing blow to the Chinese army, so that it may lose completely its will to fight."

On the Chinese side, Generalissimo Chiang Kai-shek issued a statement on July 30th, containing the following observations:

"The declaration I made at Kuling and the minimum four conditions laid down by me for the settlement of the Loukouchiao affair are unalterable. It is out of the question that, having reached this crucial juncture, we could still consider the situation

The general attitude of the Japanese Government towards the dispute was set forth in a statement made by the Japanese Prime Minister on July 27th, when, in answer to a question in the Diet, he said:

“Japan has no territorial ambitions whatever in China. If she had such designs as the Chinese professed, the army might already have occupied the whole of North China. Surely the Chinese Government and the Powers realise this. Japan wants Chinese co-operation, not Chinese territory. By co-operation, I do not mean that Chinese interests are to be subordinated to those of Japan, but that the two countries should contribute on a basis of equal mutual assistance to the development of Far-Eastern culture and prosperity.”

In his speech before the Diet of September 5th, M. Hirota, the Minister for Foreign Affairs, declared that the policy of the Japanese Government had been one of local settlement and non-aggravation and that the Japanese Government had exerted every effort to effect a speedy solution.

On September 15th, the spokesman of the Japanese Foreign Office declared that the Japanese Government, in accordance with the policy of local settlement and non-aggravation, had done everything to arrive at a speedy settlement.

Statements such as these appear to show that both sides believe that at an early stage of events the incident could have been localised and a pacific solution found. This result, however, proved unattainable.

It is noteworthy that Japanese official statements declare that it was the movements of Chinese troops and the aggressive intentions of the Chinese Government which frustrated the pacific intentions of the Japanese Government. Chinese official statements, on the other hand, bring exactly the same charge against Japan—namely, that it is the invasion of Japanese troops and the aggressive intentions of the Japanese Government that have swelled a local incident into a great catastrophe.

by the Parties themselves as to their attitude and policy during the development of the conflict up to the present time.

The attitude of China was set out by the President of the Executive Yuan, Generalissimo Chiang Kai-shek, in a speech made on July 17th, 1937, in which he emphasised that national existence and international co-existence were the twin aims of the external policy of the Chinese National Government. . . . China was not seeking war; she was merely meeting attacks on her very existence. On the other hand, she was still seeking peace. Whether it would be peace or war depended entirely on the movements and activities of the Japanese troops. He then mentioned four points as representing the minimum considerations on the basis of which a pacific solution could be sought. These points were:

(1) Any settlement must not contain any terms constituting an encroachment on China's sovereign rights and territorial integrity;

(2) Any unlawful alteration in the administrative systems of the two provinces of Hopei and Chahar would not be allowed;

(3) The removal of the provincial officers appointed by the Central Government . . . through outside pressure, would not be allowed; and

(4) No restrictions should be imposed on the garrison districts of the 29th Route Army.

In the memorandum presented by the Chinese Foreign Office to the Japanese Embassy in Nanking on July 19th, the Chinese Government "renewed its proposal for simultaneous cessation of troop movements on both sides and mutual withdrawal of troops to their respective original position on a date to be agreed upon by both parties." It also unequivocally stated that for the settlement of the incident the Chinese Government was prepared to accept any pacific means known to international law or treaties, such as direct negotiations, good offices, mediation and arbitration.

Under the Nine-Power Treaty of 1922 regarding the principles and policies to be followed in matters concerning China, the contracting Powers, other than China, agreed, *inter alia*, to respect the sovereignty, the independence and the territorial and administrative integrity of China; to provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable Government. The contracting Powers (including China) further agreed that whenever a situation arose which, in the opinion of any one of them, involved the application of the stipulations of the Treaty and rendered desirable discussion of such application, there should be full and frank communication between the contracting Powers concerned.

Under the Pact of Paris of 1928, the parties solemnly declared in the names of their respective peoples that they condemned recourse to war for the solution of international controversies and renounced it as an instrument of national policy in their relations with one another. They further agreed that the settlement or solution of all disputes or conflicts, of whatever nature or of whatever origin they might be, which might arise among them, should never be sought except by pacific means.

III.

Prima facie, the events described in the first part of this report constitute a breach by Japan of her obligations towards China and towards other States under these treaties. The conduct of hostilities by Japanese forces under the circumstances described by land, water and air throughout China in *prima facie* inconsistent with an obligation to respect the sovereignty, the independence and the territorial integrity of China, and also with the obligation never to seek the solution of a dispute with China, of whatever origin or character, except by pacific means. It would seem that only if it could be shown to be a measure necessary for self-defence (including the defence of the Japanese forces and nationals lawfully upon Chinese territory) could the position of the Japanese forces in China possibly be reconciled with Japan's treaty obligations.

Among the elements by which this question can be judged must be included the official statements made

As regards the activity of the Japanese aircraft, the Advisory Committee, in its resolution of September 27th, condemned the aerial bombardments of open towns in China. The Assembly has endorsed this resolution.⁶

II.

For the purpose of examining the facts of the present situation, it does not seem necessary to discuss the treaties regulating commercial matters and such matters as the extra-territorial status of Japanese nationals in China. There are only three main treaties which are relevant to our present purpose—namely, the Final Protocol of September 7th, 1901, the Nine-Power Treaty signed at Washington in 1922, and the Pact of Paris of 1928, to which may be added the Hague Convention No. I of October 18th, 1907,⁷ which has a somewhat different character. There are, in addition to these, an indeterminate number of bilateral agreements which have been negotiated at various times locally between Chinese and Japanese authorities. The exact terms, the scope, the interpretation of the validity of these agreements are matters of dispute. They cannot affect or override the obligations undertaken by either of the parties in the three multilateral engagements referred to above.

Under the Protocol of September 7th, 1901, and annexed instruments, Japan, together with certain other Powers, is entitled to station troops at certain points in the province of Hopei, along the Peiping-Mukden Railway, for the purpose of keeping open communications between the legations in Peiping and the sea. These troops "will have the right of carrying on field exercises and rifle practice, etc., without informing the Chinese authorities, except in the case of *jeux de guerre*."

(6) The Assembly, at its meeting of September 30th, adopted a report of the Sixth Committee whereby the said Committee, having heard a statement from the Chinese delegate, urged that in armed conflicts artistic monuments and cultural institutions representing the high-water mark of civilisations should be spared.

(7) China and Japan have signed and ratified the Hague Convention No. I of October 18th, 1907. Under Article I of that Convention, the contracting Powers, "with a view to obviating as far as possible recourse to force in the relations between States," agreed to use their best efforts to insure the pacific settlement of international differences." The Convention recommends recourse, according to the case, to mediation, arbitration, or international commissions of inquiry.

had her armed forces there increased by several thousand. At the same time, however, demands calculated to remove or undermine Chinese defence were made on the Chinese authorities. The expected attack opened on August 13th, four days after the incident."

Since then furious fighting has been going on round Shanghai. At the beginning of July, the strength of the Japanese troops stationed in the International Settlement and on the extra-Settlement roads amounted to 4,000 men. At the end of September, under the protection of 38 Japanese warships assembled at Woon-sung, reinforcements had been landed which the Chinese authorities estimated at over 100,000 men.

During the last few weeks, Japan has developed her military action, not only in the Yangtse valley, where, *inter alia*, Japanese aircraft have several times bombed the capital of China, but along the Chinese coast and in the interior, where numerous aerial bombardments have been carried out.

At present, apart from the operations of the Japanese armies in North and Central China, and the raids carried out by Japanese aircraft on the ports and the cities of the interior, the Japanese fleet, while continuing to co-operate with the army, more especially before Shanghai, is patrolling the coast to prevent supplies from being brought to China by Chinese ships, a number of which have been sunk.⁵

Since July 7th, faced by a growing resistance, Japan has not ceased to intensify her action, employing larger and larger forces and more and more powerful armaments. According to Chinese estimates, in addition to the 100,000 men in the Shanghai region, the strength of the Japanese troops operating in China exceeds 250,000 men.

(5) On August 25th, 1937, Vice-Admiral Hasegawa, commanding the Japanese naval forces, published the following proclamation at Shanghai:

"A blockade of the Chinese coasts from 32° 4' North and 121° 44' East to 23° 14' North and 116° 48' East, on and after 6 p.m., on August 25th, against Chinese vessels, is hereby proclaimed.

"Vessels of a third party and also Japanese vessels are free to pass the blockaded area."

On September 5th, the Tokio Navy Office announced that, from noon of that day, the entire coast of China would be closed to Chinese vessels. The port of Tsingtao and the leased territories of third Powers are excluded.

withdrawal of the Peace Preservation Corps and the removal of all military works that had been erected in violation of the 1932 Truce Agreement. China refused to comply with our demands under one pretext or another, and proceeded, instead, to increase her troops and multiply her military works in the prohibited zone, and finally launched an unwarranted attack upon the Japanese.

"Thereupon, as a matter of duty, our Government despatched small naval reinforcements to Shanghai as an emergency measure to ensure the protection of our nationals in that city."

After describing the efforts of the Powers to exclude Shanghai from the zone of hostilities, M. Hirota said that "in the afternoon of August 13th, the Chinese armies that had been pouring into the Shanghai area took the offensive."

With this version may be contrasted that contained in the Chinese Government's statement communicated to the League of Nations on August 30th.

The incident of August 9th is described as follows:

"One Japanese naval officer, one Japanese seaman, and a member of the Chinese Peace Preservation Corps were killed in a clash arising from the Japanese naval men's attempt to approach the Chinese military aerodrome near Shanghai regardless of Chinese warnings."

Recalling, moreover, the above-mentioned declaration by its representative at the time of the conclusion of the Agreement of May 5th, 1932, the Chinese Delegation, while mentioning that its Government had repeatedly ordered the local authorities of Shanghai to take special precautions against the occurrence of any untoward incident, maintains that movements of Chinese troops in Chinese territory cannot be considered as a breach of the Agreement.

The opening of hostilities at Shanghai is described by the Chinese note in these words:

"Within less than forty-eight hours, Japan concentrated about thirty warships at Shanghai, and

the taking of the Nankow Pass, some 80 kilometres north-west of Peiping, facilitated the penetration of the Japanese Manchurian divisions into Inner Mongolia.

The operations of the Japanese troops in North China provoked a lively reaction in China. By the declarations of Japanese statesmen to the effect that China must give way, the emergency financial measures taken at Tokyo, and the departure of the Japanese nationals resident in China, the Government and the people of China were led to the conclusion that Japan was determined to break their resistance by force of arms.

They were confirmed in this conviction, when at the end of the second week of August, the Shanghai region became a second theatre of operations, despite the efforts that were made to keep hostilities at a distance from a city in which the interests of China and those of other nations are so closely interlocked.

It will be remembered that, in 1932, the hostilities in the Shanghai region had been brought to an end by the conclusion of the Agreement of May 5th, of which Article II stipulated that the Chinese troops would remain in the positions they occupied at that date pending later arrangements upon the re-establishment of normal conditions in the area dealt with by this Agreement. The Chinese delegation to the Shanghai Conference, in accepting the Agreement, declared in particular that it was understood that "nothing in this Agreement implies any permanent restriction on the movements of Chinese troops in Chinese territory."

The Japanese Minister for Foreign Affairs, in a speech which he made in the Imperial Diet on September 5th, 1937, described as follows the initial incident at Shanghai on August 9th and the difficulties which occurred on the following days:

" . . . on August 9th, at Shanghai, Sub-Lieutenant Oyama and Seaman Saito, of the landing party, were murdered at the hands of the Chinese Peace Preservation Corps.

"Even then, Japan, adhering to a peaceful cause, sought to settle the affair through the

supplementary to this agreement; moreover, disregarding the agreements concluded for the mutual withdrawal of troops, the Japanese army extended its operations in Northern China.

Leaving on one side the obvious discrepancies between these Chinese and Japanese versions of the events, it may be observed that, while these discussions between local authorities for local settlement were going on, and while communications were passing between the Japanese Government and the Chinese Government, the former insisting that a local solution which would confirm its influence in North China should be obtained without Nanking, extensive movements of troops were making the situation worse. As a result of the arrival at Tientsin and in the suburbs of Peiping of reinforcements, hastily sent from Manchuria, the Japanese effectives on July 12th, according to Chinese reports, exceeded 20,000 men, and the Japanese Air Force consisted of 100 aeroplanes. It was also announced that troops of the Central Chinese Government were moving north.

Just as it had advised Nanking not to intervene in the settlement of the incident of July 7th, the Japanese Government gave the Chinese Government a warning regarding the movements of its troops towards the north. Involving the Tangku Armistice Convention of May 31st, 1933, and the Umezu-Ho-Ying-ching Agreement of June 10th, 1935, an agreement disputed by China, Japan warned the Nanking Government of the serious consequences that would follow on the despatch of its troops into Hopei.

At the end of July hostilities began in North China, at a time when local negotiations were being carried on. The Japanese occupied Peiping and Tientsin and seized the railway lines running south which connect these two cities with Central China. A new Government which favoured the Japanese influence was set up in Hopei.

The Japanese army then progressed towards the west along the railway which connects Peiping and Sui-yuen through Kalgan and Ta-tung. It also progressed along the frontier between Hopei and Chahar Province;

The Chinese and Japanese versions of the incident differ.

According to the Japanese version, it was the Chinese soldiers of the 29th Army who opened fire; a temporary cessation of hostilities was arranged on the morning of July 8th by the Chinese and Japanese military authorities—this was to permit of the immediate opening of negotiations between these same authorities, with a view to the settlement of the incident; the Chinese soldiers did not abide by this agreement, nor by the agreement concluded next day for the mutual withdrawal of the Chinese and Japanese troops; this aggressive attitude on the part of the Chinese troops rendered vain the agreement⁴ concluded on July 11th for the settlement of the incident by the Japanese military authorities on the one hand and the Mayor of Tientsin and the Chief of the Public Safety Bureau of Hopei on the other.

According to the Chinese version, on the pretext that one of their men was missing, the Japanese troops which were carrying out manoeuvres in the night of July 7th asked permission to enter Wanping (Loukouchiao) in order to make investigations; this having been refused, Wanping (Loukouchiao) was attacked by the Japanese infantry and artillery; the Chinese garrison resisted; the situation was aggravated, not by the action of the Chinese troops, which even before the Japanese troops had begun their withdrawal, complied with the agreement for the withdrawal of troops, but by the action of the Japanese troops, which, having received large reinforcements, resumed the offensive in the Wanping (Loukouchiao) zone, extending their operations to the immediate vicinity of Peiping; the Chinese Government made no objection to the terms of the agreement concluded on July 11th between the Chinese local authorities and the Japanese army, but the Japanese attempted to impose measures

(4) This Japanese version is to be found in the dispatches of the Domei Newsagency. The agreement of July 11th consisted of three points:

(1) Apology by the representatives of the 29th Army and punishment of those directly responsible;

(2) Chinese troops to evacuate Loukouchiao and to be replaced by the Peace Preservation Corps for the purpose of keeping the Chinese troops sufficiently separated from the Japanese;

(3) Adequate measures to be taken for curbing the activities of the Blue Shirts and Communists.

tion between the capital and the sea. Under the terms of a supplementary Agreement of July 15th-18th, 1902, the foreign troops stationed at these points had "the right of carrying on field exercises and rifle practice, etc. . . . without informing the Chinese authorities, except in the case of *feux de guerre*".

The Powers other than Japan which at present² maintain contingents at Peiping (Peking), and certain of the points specified in the Protocol of September 7th, 1901, only have very small detachments there. The number of British troops stationed in North China at the beginning of July this year was 1,007; that figure includes the 252 members of the Legation guard. Similarly, the strength of the French effectives stationed in Hopei varies between 1,700 and 1,900, the bulk of whom are at Tientsin. The rest are divided among the garrisons of Shan-hai-Kuan, Chin-wang-tao, Tangku and Peking, the detachment in the latter town forming the Embassy guard. At present, the total strength of those troops is 1,600 men and 60 officers; the Embassy guard consists of 120 men.

In addition to the events and developments in Manchuria and Jehol, Japan's political activity in North China, the presence of Japanese effectives greatly in excess of the contingents of the other Powers, and the frequency of their exercises and manoeuvres³ disquieted the Chinese. It was in an atmosphere of tension that on July 7th last an incident occurred which was not essentially different from those which had preceded it, but which was the occasion from which flow the Japanese army's present operations in Northern China.

This initial incident occurred at Loukouchiao, thirteen kilometres to the south-west of Peiping (Peking), between the Chinese garrison and the Japanese troops carrying out night manoeuvres in that district.

(2) The Union of Soviet Socialist Republics, having from 1924 onwards given up Russia's right to maintain troops in China in virtue of the 1901 Protocol, now keeps no military contingent there.

(3) In point of fact, the Japanese Embassy guard carried out manoeuvres every summer in the country to the west of Peking. The other foreign guards do not seem to have been in the habit of engaging in manoeuvres in the strict sense of the term; they confined themselves to musketry exercises on the rifle-range and route-marches in the country-side.

**B. FIRST REPORT OF THE SUB-COMMITTEE OF THE
FAR-EAST ADVISORY COMMITTEE**

The Sub-Committee has not attempted to deal with the historical and underlying causes of the conflict in the Far East. It has not, for instance, thought it necessary to revert to the Manchuria affair, which is dealt with in the report adopted by the Assembly on February 24th, 1933. Nor has it attempted to describe in detail the development of events either in the sphere of military action or in that of negotiation and policy. The accounts issued by the two parties in regard to these are contradictory, and on the basis of the material available it would be impossible to do so, especially in view of the fact that Japan, which, since March 28th, 1935, is no longer a Member of the League, did not agree to send a representative to sit on the Committee.

In any case, a detailed study is unnecessary. At the beginning of July 1937, there was no indication from either side that there was anything in their relations which could not be settled amicably. All that the Committee has to do is to describe and assess the events which led from a state of peaceful relations to a situation where large armies are in conflict.

It has, accordingly, been possible, in the time available, to trace the main development of events, to examine the treaty obligations of the parties to the conflict and to draw conclusions which are set out at the end of this report.

I.

At the beginning of July 1937, there were about 7,000 Japanese soldiers in Northern China. These troops were kept there on the basis of the Protocol of September 7th, 1901 (and its annexes), concluded between China and the Powers having legations at Peking. Under these Agreements, China recognised the right of each Power to maintain a permanent guard in the legations quarter at Peking and to occupy twelve specified points¹ for the maintenance of open communica-

(1) The points are Huang-tsun, Lang-fang, Yang-tsun, Tientsin, Chung-liang Ch'eng, Tang-ku, Lu-tai, Tang-shan, Lan-chou, Chang-li, Ch'in-yang tao, Sha-hai kuan.

- 6 -

Australia.

Geneva, September 27th, 1937.

To the Secretary-General.

You will recall that on September 22nd, in acknowledging the receipt of your letter of the same date conveying an invitation to His Majesty's Government in the Commonwealth of Australia to take part in the work of the Advisory Committee set up by the Assembly resolution of February 24th, 1933, I advised that I was referring that invitation to my Government for decision.

I am now instructed by my Government to accept the invitation to take part in the work of the Advisory Committee.

(Signed) S. M. BRUCE.

Japan.

Tokyo, September 25th, 1937.

[*Translation.*]

To the Secretary-General.

In acknowledging receipt of your telegram of September 21st last, inviting the Imperial Government to take part in the work of the Advisory Committee, I have the honour, in reply, to inform you of the following:

The maintenance of peace in Eastern Asia by harmonious co-operation between Japan and China is the aim which the Imperial Government has always had before it and to which it has devoted every effort. The Chinese Government has, however, made opposition to Japan and anti-Japanese agitation the bases of its national policy, acts of provocation have continued to be committed throughout its territory, thus bringing about the present unhappy affair. The Japanese Government can therefore only express the hope that the Chinese Government, realising this state of affairs, will soon change its sentiments.

As regards the settlement of the present affair, the Imperial Government, as it has stated on many occasions, is firmly convinced that a just, equitable and practical solution of the questions concerning Japan and China can be found by the two countries.

Consequently, the Japanese Government, seeing no reason to depart from the line of conduct it has hitherto followed with regard to the political activities of the League of Nations, regrets that it is unable to accept the Advisory Committee's invitation.

(Signed) HIROTA,
*Minister for Foreign Affairs
of Japan.*

“Decides to adjourn its present session and to authorise the President to summon a further meeting if the Advisory Committee so requests.”

APPENDIX.

REPLIES FROM GOVERNMENTS TO THE
ADVISORY COMMITTEE'S INVITATION.

Germany.

Geneva, September 23rd, 1937.

[*Translation.*]

To the Secretary-General.

I have the honour to confirm our conversation of to-day, in the course of which I convey to you the German Government's reply to your telegram of September 21st.

Under instructions from my Government, I had the honour to inform you of the reasons which, to its regret, prevent the German Government from taking part in the work of the Advisory Committee that is meeting to consider the situation in the Far East.

(*Signed*) KRAUEL.

China.

Geneva, September 23rd, 1937.

To the Secretary-General.

I have the honour to acknowledge your letter of September 22nd, 1937, inviting the Chinese Government in the name of the Advisory Committee to participate in its work.

I have duly conveyed the invitation to my Government and, in reply, I am authorised to inform you of its cordial acceptance.

(*Signed*) V. K. Wellington Koo,
*Representative of China on the Council
and First Delegate to the Assembly.*

Assembly. At the same time, the Committee considers that it would be right to allow the Sub-Committee, should it so desire, to communicate for information to Members of the League and non-members any reports which it may submit to the main Committee. In that event, it would follow on practical grounds that such reports would also be published.

The Committee decided to communicate its *Procès-verbaux* for the information of the Assembly. They will be issued as soon as possible in the form of an Annex to the present report.

The Committee has received two reports from its Sub-Committee and adopts the following resolution:

“The Advisory Committee adopts as its own the two reports submitted to it by its Sub-Committee on October 5th, 1937, and decides to communicate them to the Assembly, to the Members of the League, and to the Government of the United States of America.”

The Committee submits the following draft resolution for the approval of the Assembly:

“The Assembly:

“Adopts as its own the reports submitted to it by its Advisory Committee on the subject of the conflict between China and Japan;

“Approves the proposals contained in the second of the said reports (document A.80.1937. VII) and requests its President to take the necessary action with regard to the proposed meeting of the Members of the League which are Parties to the Nine-Power Treaty signed at Washington on February 6th, 1922;

“Expresses its moral support for China, and recommends that Members of the League should refrain from taking any action which might have the effect of weakening China's power of resistance and thus of increasing her difficulties in the present conflict, and should also consider how far they can individually extend aid to China;

III. REPORTS ADOPTED BY THE ASSEMBLY
ON OCTOBER 6TH, 1937.

A. REPORT OF THE FAR-EAST ADVISORY COMMITTEE.

In conformity with the decision of the Council at its meeting of September 16th, 1937, the Advisory Committee set up by the Assembly on February 24th, 1933, has met to examine the situation to which attention was directed by China.

The Committee elected M. V. Munters, Minister for Foreign Affairs of Latvia, to be its Chairman. The Committee has held five meetings during its present session.

It proceeded at once to invite China and Japan, as parties to the dispute, and also Germany and Australia, to participate in its work. This invitation was accepted by China and Australia, and declined by Germany and Japan. The texts of the replies received from the four Governments in question are annexed to the present report.

On September 27th, 1937 the Committee adopted a resolution with regard to the air bombardments carried out in China by Japanese aircraft. This resolution was communicated to the Assembly and unanimously adopted by the Assembly as its own on September 28th, 1937.

The Committee appointed a Sub-Committee¹ whose duty is:

- To examine the situation arising out of the Sino-Japanese conflict in the Far East;
- To discuss the questions involved;
- To submit to the Committee such proposal as it may think fit.

The Committee remains the only body which is authorised to report, and to make proposals, to the

(1) The Sub-Committee is composed of the following Members: Latvia, (*Chairman*), Australia, Belgium, United Kingdom, China, Ecuador, France, New Zealand, Netherlands, Poland, Sweden, Union of Soviet Socialist Republics, the United States of America participating on the same conditions as those which govern her participation in the Advisory Committee.

I. RESOLUTION ADOPTED BY THE
ASSEMBLY ON SEPTEMBER 28TH, 1937.

The Assembly,

Taking into urgent consideration the question of the aerial bombardment of open towns in China by Japanese aircraft:

Expresses its profound distress at the loss of life caused to innocent civilians, including great numbers of women and children, as a result of such bombardments;

Declares that no excuse can be made for such acts, which have aroused horror and indignation throughout the world;

And solemnly condemns them.

II. RESOLUTION ADOPTED BY THE
ASSEMBLY ON OCTOBER 6TH, 1937.

The Assembly:

Adopts as its own the reports submitted to it by its Advisory Committee on the subject of the conflict between China and Japan (documents A.78, A.79 and A.80. 1937. VII).

Approves the proposals contained in the second of the said reports (document A.80. 1937. VII) and requests its President to take the necessary action with regard to the proposed meeting of the Members of the League which are Parties to the Nine-Power Treaty signed at Washington on February 6th, 1922;

Expresses its moral support for China, and recommends that Members of the League should refrain from taking any action which might have the effect of weakening China's power of resistance and thus of increasing her difficulties in the present conflict, and should also consider how far they can individually extend aid to China;

Decides to adjourn its present session and to authorise the President to summon a further meeting if the Advisory Committee so requests.

TABLE OF CONTENTS

	Page
I. Resolution Adopted by the Assembly on September 28th, 1937.....	1
II. Resolution Adopted by the Assembly on October 6th, 1937	1
III. Reports Adopted by the Assembly on October 6th, 1937.....	2
A. Report of the Far-East Advisory Committee	2
Appendix: Replies from Governments to the Advisory Committee's Invitation	4
1. Germany	4
2. China	4
3. Japan	5
4. Australia	6
B. First Report of the Sub-Committee of the Far-East Advisory Committee	7
C. Second Report of the Sub-Committee of the Far-East Advisory Committee	21
IV. Resolution Adopted by the Council on February 2nd, 1938	24
V. Resolution Adopted by the Council on May 14th, 1938	25

THE LEAGUE OF NATIONS
RESOLUTIONS AND REPORTS
ON
THE SINO - JAPANESE DISPUTE
SINCE
THE LUKOUCHIAO INCIDENT
OF
JULY 7TH, 1937

578
232

THE LEAGUE OF NATIONS
RESOLUTIONS AND REPORTS
ON
THE SINO - JAPANESE DISPUTE
SINCE
THE LUKOUCHIAO INCIDENT
OF
JULY 7TH, 1937

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95