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THE

LEAGUE OF NATIONS GENEVA, 1922.

REPORT OF

THE SECRETARY AND SPECIAL DELEGATE
OF THE JOINT FOREIGN COMMITTEE

ON

QUESTIONS OF JEWISH INTEREST AT
THE THIRD ASSEMBLY OF THE LEAGUE

PRESENTED TO THE BOARD OF DEPUTIES OF BRITISH JEWS AND
THE COUNCIL OF THE ANGLO-JEWISH ASSOCIATION, NOVEMBER, 1922.

LONDON.

The Joint Foreign Committee of the Board
of Deputies of British Jews and the
Anglo-Jewish Association,
2, Verulam Buildings, Gray's Inn, W.C.1.
1922.

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THE JOINT FOREIGN COMMITTEE
OF
THE BOARD OF DEPUTIES OF BRITISH JEWS
AND
THE ANGLO-JEWISH ASSOCIATION.

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The Right Hon. LORD SWAYTHLING.

SECRETARY.

LUCIEN WOLF, Esq.

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REPORT

1. The Third Assembly of the League of Nations met in Geneva on September 4th, 1922, with a full programme of work which kept it in session until the end of the month. It was admirably assisted by six important Committees, charged with the more detailed study of the questions on the Agenda.

2. The questions of Jewish interest which came before the Assembly, in one form or another, were the following:—

(a) Improvement of the organisation and procedure of the League in regard to the obligations devolving upon it as Guarantor of the Minorities Treaties.

(b) The misinterpretation of Article 80 of the Treaty of St. Germain-en-Laye to the prejudice of Jews.

(c) The ill-treatment of the Jews of Hungary.

(d) Minority Rights in Latvia and Esthonia.

(e) Eastern Galicia and

(f) Palestine.

A.—PROCEDURE UNDER THE MINORITIES TREATIES.

3. As in 1921, Professor Gilbert Murray, one of the Delegates for South Africa, took charge of the first of these questions. It will be remembered that last year Professor Murray made proposals for improving the procedure under which the Council of the League can be seized of infractions of the Minorities Treaties, and that, as a result, a still-born scheme of the Council for the appointment of a Committee to study petitions and “assist” the Council in dealing with them was brought to life and approved by the Assembly.⁽¹⁾ A year’s experience has not altogether justified the hopes reposed in this Committee. The old difficulty in the way of getting the Council to act—unfortunately inherent in the guarantee Article of the Minorities Treaties—appears to be still unsolved. This was especially shown in the case of a petition relating to the misinterpretation of Article 80 of the Treaty of St. Germain-en-Laye which was addressed to the League by the Joint Committee in November, 1921, but which failed to obtain a hearing on its merits.⁽²⁾ In other respects the guarantee of the League seemed to operate creakily, and Professor

¹ Wolf: *Report on the Second Assembly* (Lond. 1921), pp. 1, 2, 8.

² *Infra*, pp. 4-5.

Murray decided, on this occasion, to give his proposals a larger scope. In the preparation of these proposals he was good enough to take account of the views of the Joint Foreign Committee which I had the privilege of submitting to him before and during the meeting of the Assembly.

4. The Minorities Treaties have never been popular with the States to which they have been applied, and from the outset Professor Murray's action encountered opposition. Nothing, however, could have been more moderate and conciliatory than his treatment of the matter. His first step was to move a perfectly neutral Resolution in the Assembly on September 5th, proposing that certain sections of the Chapter on Minorities in the Report of the Council should be referred to a Committee, "with the request to report thereon to the Assembly in order that the latter may have an opportunity of expressing its considered view on the questions."⁽³⁾ The temper in which the Minorities States were disposed to deal with any attempt to strengthen the existing system was at once illustrated by an Amendment moved by one of the Latvian delegates. This asked that the Committee should also consider the "main lines" of a scheme for extending the obligations of the Minorities Treaties to all the States in the League.⁽⁴⁾ It afterwards transpired that the Government of Latvia had calculated that by this Amendment it might avoid the fulfilment of its own pledges with regard to special Minorities guarantees in virtue of which Latvia had been admitted to the League.⁽⁵⁾ On its own merits or demerits, however, the Amendment easily commended itself to the majority of the States subjected to Minorities Treaties, and, together with Professor Murray's Resolution, it was referred to the Sixth Committee without a division.

5. On September 11th Professor Murray submitted his reform proposals to the Sixth Committee in the shape of five Draft Resolutions. Only the first three dealt with improvements in the organisation and procedure of the League. The remaining two were pious *vœux* apparently designed to appease the opposition by recognising, in the one case, the duty of Minorities to conduct themselves as loyal citizens of the States to which they belong and by expressing the hope, in the other case, that States not bound by Minorities Treaties would deal with their Minorities in accordance with the principles of those Treaties. Of the Constructive Resolutions, the first proposed to give the Minorities Section of the Secretariat the power to deal with minor

³ *Verbatim Report of the Third Assembly; 4th Plenary Meeting, pp. 3-4.*

⁴ *Ibid.* 5th Plenary Meeting, p. 9.

⁵ *Infra*, pp. 8-9.

difficulties which might arise between Minorities and their Governments by means of "benevolent and informal" mediation, and, for this purpose, suggested an increase of the Secretarial staff. The second recommended that disputes as to the interpretation of Minorities Treaties should be referred "without delay" to the International Court. The third proposed to authorise the Secretariat to appoint resident agents in certain countries where the due protection of Minorities might require such supervision.⁽⁶⁾ The latter Resolution was intended, among other things, to guard against the terrorism which has been exercised in certain Minorities States in order to prevent appeals to the League of Nations under the Treaties.⁽⁷⁾

6. Notwithstanding the most scrupulous efforts on the part of Professor Murray to humour the susceptibilities of the Minorities States, his main Resolutions were courteously but strongly contested. The final result was unfortunate. Resolution No. 2 was so amended as to leave the situation in regard to appeals to the International Court unchanged, and Resolution No. 3 was entirely eliminated. Thus, of the main constructive Resolutions only No. 1 remained. This small gain, however, was counterbalanced by an additional Resolution intended to turn the tables on the Minorities and their champion, which was moved by M. Benes, the chief Delegate for Czecho-Slovakia. This Resolution ran as follows:—

"The Secretariat which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner persons belonging to racial, linguistic, or religious minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the State Members of the League of Nations if they so desire."⁽⁸⁾

7. The acceptance of this Resolution by the Sixth Committee, and afterwards by the Assembly, is not easy to understand. It is not only unnecessary, and therefore likely to prove mischievous, but, in my humble opinion, it is also illegal. It is illegal because it imposes upon the Secretariat, in the name of the Minorities Treaties, a duty which is nowhere mentioned or even hinted at in the Treaties, and which is really outside their scope. It is unnecessary, because the Common Law of all the States in question suffices to assure the fulfilment of

⁶ Appendix, Doc. No. 1.

⁷ Speech of Professor Gilbert Murray (*Verbatim Record of the Third Assembly—4th Plenary Meeting*, p. 4).

⁸ Appendix, Doc. No. 1.

their civic duties by all their subjects, and therefore no help from the League is required by them. It may prove mischievous because it will enable certain Governments to bring charges of disloyalty against their Minorities which may only be matters of opinion or prejudice, but which, under this Resolution, may supply them with an excuse for infractions of the Minorities Treaties. This has actually been the case with the Hungarian *Numerus Clausus*. No one, of course, doubts that the Minorities should, if possible, be loyal to their respective countries, but obviously the best way for the League to assure this loyalty is to insist on the observance of the Minorities Treaties. This, indeed, is the aim of the Treaties themselves. It is significant that one of the first results of the adoption of this Resolution has been an attempt by the Latvian Premier, M. Meirowitz, to intimidate the local Minorities who may desire to exercise their undoubted right of appealing to the League on the score of their oppression. In a speech lately delivered at Riga he denounced such appeals as disloyal, and declared that it was precisely against such disloyalty that the Fifth Resolution of the Assembly was aimed.⁽⁹⁾

8. These considerations are so obvious that it is very improbable that M. Benes' Resolution will ever be acted upon. At any rate, the first appeal to it will suffice to demonstrate its futility. But even if that happens the result of Professor Gilbert Murray's attempt to strengthen the administration of the Minorities Treaties must be regarded as disappointingly small. The Minorities will, none the less, be deeply grateful to him for his efforts on their behalf. The one constructive Resolution adopted by the Assembly will prove useful by enabling the very capable Minorities Section of the Secretariat to deal promptly and effectively with certain Minority grievances which otherwise might go entirely unrelieved. Thus, at any rate, some progress has been achieved. It is to be hoped that the next Assembly will see the wisdom of enlarging the work of reform.

B.—ARTICLE 80 OF THE TREATY OF ST. GERMAIN.

9. The question of the misinterpretation of Article 80 of the Treaty of St. Germain was submitted to the Assembly by the Joint Foreign Committee in a Petition and two explanatory Memoranda⁽¹⁰⁾ which I had the honour of communicating to the President on August 31 and September 9, and afterwards circulated among all the Members. This unusual course was rendered necessary by the failure of the efforts of the Joint Committee to obtain a hearing for their case

⁹ Appendix, Doc. No. 2.

¹⁰ *Ibid.* Docs. Nos. 3 and 4.

under the existing defective procedure of the Council. It was not denied that there had been a blunder in the drafting of Article 80, and that, as a result, a very serious and wholly undeserved disability had been imposed on the Jewish subjects of the former Austrian Monarchy. Nevertheless, the Committee of the Council, appointed to advise the latter body on petitions addressed to it by aggrieved Minorities, had declined to act, on the purely technical ground that Article 80 did not form part of the guaranteed Minorities Section of the Treaty. An appeal to the Council itself was also unsuccessful, the view being taken that, whatever the framers of Article 80 may have intended, their text had not been misinterpreted by the Austrian Government. Both these grounds for inaction were highly contestable, and in any case there was no reason why the question should not have been referred to the International Court. It was probably this question that Professor Gilbert Murray had in mind when he proposed the second of his Resolutions referred to above.

10. From the beginning there was very little chance of the Assembly taking any definite action on our Petition. Its Agenda was already overcharged; the process of adding new items to it is not easy; the Sixth Committee to which alone it could be referred had its hands full; and finally the pressing question of relieving the grave economic crisis in Austria overshadowed every other question relating to that unfortunate State. Nevertheless, the wide circulation of our Petition produced an appreciable effect. Considerable prominence was given to it in the Swiss Press,⁽¹¹⁾ and several eminent members of the Assembly, among whom I should especially mention the Marquis Imperiali (Italy), M. Hymans (Belgium), Dr. Nansen (Norway), and M. Benes (Czecho-Slovakia), intervened unofficially with the Austrian Delegates with a view to securing a friendly settlement. The result was that I was enabled to discuss the whole question with Count Albert Mensdorff, the head of the Austrian Delegation, and with his colleague, Dr. Alfred Grünberger, Austrian Minister of Foreign Affairs. On the suggestion of Dr. Grünberger I submitted to him in writing a proposal for the settlement of the question, which is now under the consideration of the Austrian Cabinet.

C.—ILL-TREATMENT OF HUNGARIAN JEWS.

11. Simultaneously with the discussion of the Austrian question, I was very fully occupied with the more serious grievances of the Jews of Hungary. Here I am happy to report that positive results were obtained. The chief opportunity for action was afforded by the renewed application of Hungary for membership of the League. The

¹¹ See especially a long article in the *Tribune de Genève*, Sept. 14, 1922.

Joint Foreign Committee did not oppose this application, but it held that in view of the persecution to which the Jews of Hungary had lately been subjected, and more especially of the disabilities sought to be imposed upon them by the Education Act known as the *Numerus Clausus*, the Hungarian Government should be required to give definite pledges acknowledging their obligations under the Minorities Section of the Treaty of Trianon before their petition for admission to the League was granted. It is to be noted that in all previous cases of the admission of new members only a general pledge of fidelity to Treaty obligations had been exacted.

12. The necessity for obtaining special pledges from Hungary was emphasised on the eve of the opening of the Assembly by reports of impending pogroms in Western Hungary which reached the Joint Committee. On August 23 these reports were communicated to the League of Nations, and the Secretary-General was asked as a matter of urgency to bring them to the notice of the Council and also of the Hungarian Government.⁽¹²⁾ This was done and the threatened pogroms were happily averted. On September 8 I had occasion to submit to the Secretariat further evidence of the insecurity of the Hungarian Jews, and I took the opportunity of asking that the correspondence on this subject should be submitted to the Committee which was considering the question of the admission of Hungary. At the same time I urged that the attention of the Hungarian Delegation should be called to the fact that the treatment of the Jews constituted an infraction of the Minorities Articles of the Treaty of Trianon which, if persisted in, would disqualify Hungary from membership of the League.⁽¹³⁾ The result of this action, and also of certain personal representations made to leading members of the Sixth Committee, was that at the sitting of the Sub-Committee charged to examine the Hungarian application held on September 14, Mr. Fisher, the British Delegate, drew the special attention of the Hungarian Delegate to the Treaty obligations of his country in regard to the protection of Minorities, and received from him satisfactory assurances. The Committee thereupon resolved to recommend the admission of Hungary, and the recommendation, in the form of a report which specially referred to the Minorities obligations of Hungary,⁽¹⁴⁾ was duly approved by the Assembly on September 18. Besides Mr. Fisher, M. Benes rendered valuable service to the Hungarian Jews in this connection. In the debate on September 18 his colleague, M. Osuski, strongly denounced the *Numerus Clausus*, especially in its application to Jews.⁽¹⁵⁾

¹² Appendix, Docs. Nos. 5 and 6.

¹³ *Ibid.* Doc. No. 7.

¹⁴ *Ibid.* Doc. No. 8.

¹⁵ *Verbatim Record, 10th Plenary Meeting*, p. 5. See Appendix Doc. 12,

13. It will be observed that in the public documents relating to these transactions the Jews are not specifically mentioned. This omission was remedied by Count Banffy himself on September 14 when in a conversation with me he was good enough to give me assurances of a very definite character relative to the Jewish incidence of his pledges to the League. The text of these assurances will be found in the Appendix to this Report.⁽¹⁶⁾ No one who knows Count Banffy will doubt his perfect good faith in this matter and, indeed, since his return to Budapest he has given proof of his desire to assure to the Jews the rights conferred upon them by the Treaty of Trianon.⁽¹⁷⁾ His action needed no little courage in view of the angry campaign organised against him by the anti-Semitic factions.⁽¹⁸⁾ It is true that the *Numerus Clausus* will not be immediately repealed, but there is no necessity to insist on that formality if Count Banffy's assurance with regard to the application of the Law are fulfilled. Should this anticipation not be realised, the Hungarian Jews will always have the League of Nations to fall back upon. The Council of the League has still the question before it, and it is only holding its hands in order to give the Hungarian Government every opportunity of honouring Count Banffy's pledges of its own initiative.⁽¹⁹⁾

D.—MINORITY RIGHTS IN ESTHONIA AND LATVIA.

14. The question of Minority rights in Latvia and Esthonia aroused considerable interest owing to its bearing on the important proposals brought before the Assembly by Professor Gilbert Murray.⁽²⁰⁾ Technically, the question was of limited scope and belonged exclusively to the competence of the Council, but it came before the Sixth Committee of the Assembly on several occasions in connection with the question of the reform of the Minorities procedure and evoked from that body certain expressions of opinion which it is hoped will facilitate a satisfactory solution.

15. The main facts are as follows:—Last year the Baltic States were admitted to membership of the League on condition that they recognised the international character of their obligations in regard to their respective Minorities and undertook to negotiate agreements with the Secretariat of the League which would define the extent and details of these obligations. Pledges to this effect were duly signed by

¹⁶ Appendix, Docs. Nos. 10 and 11.

¹⁷ *Ibid.* Doc. No. 14.

¹⁸ *Ibid.* Doc. No. 14.

¹⁹ *Ibid.* Doc. No. 13.

²⁰ *Supra*, pp. 2-4.

Lithuania, Latvia and Esthonia, but only in the case of Lithuania were they carried out.⁽²¹⁾ Latvia and Esthonia began to raise difficulties last January, and in the course of a long correspondence with the Council virtually repudiated their pledges. They declared that their own legislation in regard to Minorities sufficed and they claimed to be treated in the same way as Finland, who, on this ground, had been exempted from the control and guarantee of her Minorities obligations by the League of Nations.⁽²²⁾ Later on both States raised other controversial issues which struck at the root of the whole system of Minorities Treaties. They contended that there was no sanction for these Treaties in International Law and that their application to new members of the League was not recognised by the Covenant, and they urged that the situation should be regularised by an International Convention placing all the State members of the League under a uniform system of Minorities guarantees.⁽²³⁾ This was the situation when the Assembly met. In effect both Latvia and Esthonia had refused to fulfil the pledges in consideration of which they had been admitted to membership of the League.

16. On September 8, in accordance with instructions from the Joint Foreign Committee, I addressed a Note to the Secretary-General, pointing out that the Minorities question in Latvia and Esthonia was similar to that in Lithuania, with the difference that in Latvia the Jewish Minority did not in practice enjoy the rights and immunities laid down in the Minorities Treaties. Accordingly I asked that Declarations should be required from those States in the same form as that which had been signed by Lithuania.⁽²⁴⁾ This form was in all essential respects a reproduction of the Polish Minorities Treaty which, it will be remembered, included special Articles for the protection of the Jewish Minority. Meanwhile, as has already been mentioned, Latvia opened her campaign for a general International Convention on the Minorities question by an Amendment to Professor Gilbert Murray's proposals, which her Delegate moved in the Assembly and which was referred to the Sixth Committee.⁽²⁵⁾ In the debates in the latter body on Professor Murray's proposals the Latvian and Esthonian Delegates developed their case against the existing Minorities system and made it abundantly clear that they declined to honour the pledges they had given to the Second Assembly. As may be imagined, this was not very

21 *Official Journal of the League*. 3rd Year, pp. 524, 584.

22 Wolf: *Report on the Second Assembly*, pp. 14, 15.

23 The voluminous correspondence has been published in full in the *Official Journal of the League*, but it will be found conveniently summarised in the following Council Documents:— C.601 M.361, 1922; C.255, M.354, 1922; C.660, 1922.1; C.261 (1), 1922.1.

24 Appendix, Doc. No. 15.

25 *Supra*, p. 2

tolerantly received by the Committee. Professor Gilbert Murray, Dr. Nansen, and Lord Robert Cecil administered courteous but unmistakable rebukes to the Baltic Delegates, and eventually the Latvian Delegate withdrew his Amendment.⁽²⁶⁾ The result was to strengthen the hands of the Council in dealing with this delicate question. On September 20 and 26, M. de Gama presented reports to the Council in which the objections of Latvia and Esthonia were overruled.⁽²⁷⁾ In the case of Latvia M. de Gama recommended that a Declaration should be required in the form suggested in my letter of September 8, but in the case of Esthonia he proposed only a Declaration in the common form of the Minorities Treaties, with the special Articles relating to the Jews omitted. This distinction is not unreasonable as the Jewish population of Esthonia is very inconsiderable, and there is no ground for believing from the past record of Esthonia that they stand in any need of special protection. The Council passed a Resolution inviting M. de Gama to continue his negotiations on the lines of his reports and there the matter now stands.

17. It is not at all likely that the Council will tolerate any compromise with Latvia and Esthonia, seeing that in the dispute with those States the whole system of Minorities Treaties is at stake, and any essential concession to them would inevitably encourage the States already bound by Minorities Treaties to endeavour to escape from their obligations. On this point the mistake made by the Council last year in the case of Finland is sufficiently instructive. There was no good reason why Finland should be exempted from the system of Minorities guarantees, and this was pointed out at the time in a protest which was addressed to the Secretary-General by the Joint Foreign Committee under date of October 21, 1921.⁽²⁸⁾ Nevertheless, Finland was exempted, and it is largely in consequence of this unhappy precedent that Latvia and Esthonia have now revolted. In this connection I may be permitted to quote a passage from another letter which I had the honour of addressing to the Secretary-General on behalf of the Joint Committee on September 21, 1921, in which the results of the action then contemplated by the Council on the Finnish question were foretold. It ran as follows:—

“The exemption of Finland from the guarantee of the League of Nations would be a deplorable precedent in the cases of all other new States seeking the membership of the League of Nations, and it would at the same time create an invidious distinction

²⁶ *Journal of the Third Assembly*, pp. 68, 81.

²⁷ *Council Docs.*, C.660, 1922.1, and C.261 (1), 1922.1. Appendix, Docs. 16 and 17.

²⁸ Wolf: *Report on the Second Assembly*, p. 16.

between her and other States which have already signed Minority Treaties or Declarations and have accepted the guarantee of the League.”⁽²⁹⁾

E.—EASTERN GALICIA. F.—PALESTINE.

18. Two further questions of Jewish interest, which, however, called for no public action on the part of the Joint Foreign Committee, made a brief appearance before the Assembly. These were Eastern Galicia and Palestine. The first of these questions is of exceeding delicacy and complexity. Eastern Galicia is typical of the ethnographic chaos of Eastern Europe. The two main populations, almost evenly balanced, are Polish and Ruthenian, but between them are some 600,000 Jews, unassimilated by either, who hold the balance of voting power. The Poles are in military occupation, under a limited Mandate from the Great Powers, and they are seeking to render their hold on the country permanent. The Ruthenians, who are the historic owners of the soil, are seething with revolt. In these circumstances the situation of the Jews is beset with danger, and this danger has been intensified by the illegal proposal of the Poles to hold elections of Deputies to the Diet at Warsaw. Whichever way the Jews vote, or even if they do not vote at all, they render themselves liable to brutal reprisals in the manner of the country. It is obvious that no foreign society can interfere in this quarrel except by way of discreet representations to the Great Powers for the protection of the Jews. Such representations I ventured to make to the British delegates, but it is difficult to see how protection can be effectively exercised. The Assembly, which considered the question at its fourteenth meeting, contented itself with passing a mildly-worded resolution calling the attention of the Powers to the “desirability” of determining the status of Eastern Galicia “at an early date.”⁽³⁰⁾

19. The question of Palestine gave rise to no discussion, as it had already been settled by the Council at its historic meeting in London last July, when the Mandate to Great Britain was approved. One new fact, however, was reported to the Assembly by the Permanent Mandates Commission, in the shape of an elaborate questionnaire which has been drawn up “to assist the preparation of the Annual Reports of the Mandatory Power.”⁽³¹⁾ This document is of interest as showing how searching are the precautions of the League for assuring the fulfilment of the provisions of the Mandate. In every case the Mandatory Power is required to report not only the

²⁹ Wolf: *op. cit.*, p. 14.

³⁰ *Verbatim Record, 14th Plenary Meeting*, p.10.

³¹ *Assembly Document A.38, 1922.*

measures taken to comply with the stipulations of the Mandate, but also the effects of such measures. No report on the administration of Palestine by Great Britain has yet been sent in to the League, the reason, no doubt, being that, technically, none is due. France, however, who is precisely in the same position as Great Britain, has sent in an excellent report on her administration of Syria.

CONCLUSION.

20. This concludes my review of the Jewish questions, and of the Jewish aspects of other political questions which came before the Third Assembly of the League, and which I was instructed to watch on behalf of the Joint Foreign Committee. In the social field of the League's activities there were two other questions—the Russian Famine and the Russian Refugees—which also have large Jewish aspects; but these are primarily the concern of other Jewish bodies, and I have reported upon them separately to the Jewish Colonisation Association and the Fund for the Relief of the Jewish Victims of the War in Eastern Europe, for whom I acted in the capacity of Delegate. The record in the political field is a little disappointing, but only in the respect that the achievements are not as great as might have been reasonably hoped. On all the questions dealt with there has been appreciable progress, and this is all the more satisfactory in view of certain resistances which might easily have made for loss. But, apart from gain or loss, the mere vigilance of the Joint Foreign Committee and of other Jewish organisations on these occasions has a merit of its own, which, I venture to think, has not been inconspicuously exemplified in this Report. This vigilance finds in the meetings of the Assembly a forum from which Jewish grievances may be far more effectively ventilated than in the old days of the Berlin Treaty when they remained hidden away in the archives of the European Chancelleries and left the oppressors to pursue their sinister courses unashamed. The publicity now obtained, even apart from the remedial action of the League, has a wholesome effect both in preventing infractions of the Minorities Treaties and in promoting friendly settlements of such infractions which otherwise would be impossible. Thus, although much has yet to be done in the way of rendering effective the League's guarantee of the Minorities Treaties, the vigilance of the Jewish Societies in appealing to those Treaties, especially on the occasions of the annual meetings of the Assembly, proves of distinct value in assuring their observance.

21. My grateful acknowledgments are due to many eminent members of the Assembly—some of their names have been mentioned

in the course of this Report—for the kind and valuable help they gave me in carrying out my task. I owe much also to the ready sympathy and the wise counsel of the Minorities Section of the Secretariat. As on previous occasions, I am deeply indebted to the Grand Rabbin of Geneva, M. Ernest Ginsburger, for his indefatigable assistance at every stage of my mission. This was especially the case in connection with the arduous and delicate Austrian negotiations, in which M. Ginsburger collaborated with me both as a friend and as the resident representative of the Alliance Israélite Universelle.

LUCIEN WOLF.

London, October 15, 1922.

APPENDIX OF DOCUMENTS.

A.—PROCEDURE UNDER THE MINORITIES TREATIES.

No. 1.

(*Professor Gilbert Murray's Resolutions.*)

The following is a comparative table of the Resolutions moved by Professor Gilbert Murray in the Sixth Committee on September 11th, 1922, and of the form in which they were reported by the Committee and adopted by the Assembly:—

Original Resolutions.

1. While in cases of grave infraction of the Treaties it is necessary that the Council retain its full power of direct action, the Committee recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments and the Minorities under their sovereignty by benevolent and informal communications with the said Governments.

For this purpose the Committee suggests that the Council might reasonably require to have a larger staff at its disposal.

2. In case of disputes as to the interpretation of the Treaties or of their application to particular cases or as to any matter of fact on which such application depends, the Committee recommends that recourse should be had without delay to the decision of the International Court.

Final Resolutions.

1. While in cases of grave infraction of the Minorities Treaties it is necessary that the Council should retain its full power of direct action, the Assembly recognises that in ordinary circumstances the League can best promote good relations between the various signatory Governments and persons belonging to racial, religious or linguistic Minorities placed under their sovereignty by benevolent and informal communications with those Governments. For this purpose the Assembly suggests that the Council might require to have a larger secretarial staff at its disposal.

2. In case of difference of opinion as to questions of law or fact arising out of the provisions of the Minorities Treaties, between the Government concerned and one of the State Members of the Council of the League of Nations, the Assembly recommends that the Members of the Council appeal without unnecessary delay to the Permanent Court of International Justice for a decision in accordance with the Minorities Treaties, it being understood that the other methods of conciliation provided for by the Covenant may always be employed.

ORIGINAL RESOLUTIONS—*contd.*

3. In some localities of mixed population, the Committee believes that the protection of Minorities cannot be securely attained except by the appointment of resident Agents of the League to report impartially on the behaviour of both, or all, sections of the population.

4. While the Committee recognises the primary right of the Minorities to be protected by the League from oppression, it also emphasises the duty incumbent on the Minorities to co-operate as loyal fellow-citizens with the nation to which they now belong.

5. The Committee expresses the hope that those States which are not bound by any legal obligation to the League with respect to Minorities will nevertheless observe in the treatment of their own Minorities at least as high a standard of justice and toleration as is required by any of the Treaties.

No. 2.

(From the Jewish Correspondence Bureau Service, October 11th, 1922.)

Riga (J. C. B. Service).

M. Meierowitz, the Latvian Premier, delivered an address here this week on the situation. He spoke mostly of the Near East crisis and the League of Nations. He also dealt, in connection with the League of Nations, with the rights of the national Minorities in Latvia. These, he said, had been secured on a democratic basis. Latvia, he insisted, had gone much further in this respect than the other States, and was giving its Minorities more extensive rights than were provided in the Treaty with the League of Nations. If, in spite of this, the Minorities submitted complaints to the League of Nations, it was on their part by no means a far-seeing policy. The result of this policy on their part was the resolution adopted at the last Assembly of the League of Nations, that the Minorities must be loyal to their respective Governments,

FINAL RESOLUTIONS—*contd.*

3. While the Assembly recognises the primary right of the Minorities to be protected by the League from oppression, it also emphasises the duty incumbent upon persons belonging to racial, religious or linguistic Minorities to co-operate as loyal fellow-citizens with the nations to which they now belong.

4. The Assembly expresses the hope that the States which are not bound by any legal obligations to the League with respect to Minorities will nevertheless observe in the treatment of their own racial, religious or linguistic Minorities at least as high a standard of justice and toleration as is required by any of the Treaties and by the regular action of the Council.

5. The Secretariat, which has the duty of collecting information concerning the manner in which the Minorities Treaties are carried out, should not only assist the Council in the study of complaints concerning infractions of these Treaties, but should also assist the Council in ascertaining in what manner the persons belonging to racial, linguistic or religious Minorities fulfil their duties towards their States. The information thus collected might be placed at the disposal of the States Members of the League of Nations if they so desire.

B.—ARTICLE 80 OF THE TREATY OF ST. GERMAIN.

No. 3.

(The Joint Foreign Committee to the President of the Assembly.)

Hotel d'Angleterre, Geneva,

August 31st, 1922.

Sir,—The Alliance Israélite Universelle and the Joint Foreign Committee of the Board of Deputies of the British Jews and the Anglo-Jewish Association have been charged by the Jews of Austria and of the territories formerly belonging to the Austrian State, to bring to the notice of the Assembly of the League of Nations the serious disability under which they labour, owing to an ambiguity in the text of Article 80 of the Treaty of St. Germain-en-Laye which the Government of the Republic of Austria have interpreted to their disadvantage; and I am instructed to beg of Your Excellency to assist the Committee in its task by submitting this petition to the Assembly at an early date.

Article 80 of the Treaty of St. Germain runs as follows:—

“Persons possessing rights of citizenship in territory forming part of the former Austro-Hungarian Monarchy, and differing in race and language from the majority of the population of such territory, shall within six months from the coming into force of the present Treaty severally be entitled to opt for Austria, Italy, Poland, Roumania, the Serb-Croat-Slovene State, or the Czechoslovak State, if the majority of the population of the State selected is of the same race and language as the person exercising the right to opt.”

Judged by the large liberal spirit of the section of the Treaty to which this Article belongs and also of the preceding section on “The Protection of Minorities,” it is clear that the intention of this Article was to enable all the subjects of the former Austrian Monarchy without distinction of religion, race or language to participate in its benefits, by extending to them an equal right of opting for the nationality to which by their up-bringing, language and political association they are most closely attached. The Austrian Government, however, by interpreting the word “race” in an ill-defined anthropological sense, and by arbitrarily applying it to all members of the Jewish Community, claims to deprive, and is, in fact, depriving, all Jews of the right of opting for Austrian Nationality, notwithstanding their German speech and affiliation, on the ground that they are not of the same “race” as the majority of the inhabitants of the Austrian State. The result is that they alone of all the subjects of the former Austrian Monarchy are denied the benefits of the Article, and a political disability is imposed upon them which the Article itself was designed to avert and which is in palpable conflict with the great liberal purpose of all the Treaties of Peace in dealing with Minorities of religion, race and language.

In a Memorandum which accompanies this petition arguments are adduced to show that the word “race” in Article 80 was never intended to possess the anthropological connotation which the Austrian Government seeks to place upon it, and that what was really meant was “nationality,” in the sense of the term as employed by the Statesmen of the former Austrian Monarchy. However that may be, it is certain that the word was not used for purposes of exclusion or political disability, and that the framers of the Article never contemplated its present invidious and unjust incidence.

It is against this injustice that the Austrian Jews now carry their respectful protest to the League of Nations—to that great Tribunal which the Nations have appointed as the supreme guardian not only of the letter of the Treaties of Peace, but also of their spirit of uncompromising and universal justice.

They ask of the Assembly to take such steps as it may judge appropriate to obtain from the judicial organs of the League of Nations an authoritative decision as to the true meaning of Article 80, and, if necessary, under Article 19 of the Covenant, to recommend to the signatories of the Treaty of St. Germain such an amendment of Article 80 as will assure to the Jewish subjects of the former Austrian Monarchy their just participation in its benefits.

In transmitting the foregoing petition to Your Excellency, I have the honour to subscribe myself,

Of Your Excellency, the most obedient humble servant,

LUCIEN WOLF,

Secretary and Special Delegate of the Joint Foreign Committee
of the Board of Deputies of the British Jews and the Anglo-
Jewish Association.

(Enclosure in No. 3.)

MEMORANDUM ON THE AUSTRIAN INTERPRETATION OF ARTICLE 80 OF THE TREATY
OF ST. GERMAIN.

1. The Austrian Government has lately adopted an interpretation of Article 80 of the Treaty of St. Germain the effect of which will be to deny to many thousands of Jews in Austria and in the States formerly included in the Austrian Empire the exercise of the right of option conferred by that Article. This interpretation is forced and unreasonable, and is clearly contrary to the intentions of the framers and signatories of the Treaty.

The Article runs as follows:—

“ Persons possessing rights of citizenship in territory forming part of the former Austro-Hungarian Monarchy, and differing in race and language from the majority of the population of such territory, shall within six months from the coming into force of the present Treaty severally be entitled to opt for Austria, Italy, Poland, Roumania, the Serb-Croat-Slovene State, or the Czechoslovak State, if the majority of the population of the State selected is of the same race and language as the person exercising the right to opt.

2. The misinterpretation of this Article arises from the assumption that the word “ race ” is used in an anthropological sense and, hence, Jews who desire and are otherwise qualified to opt for Austrian nationality are rejected by the Austrian Minister of the Interior on the ground that the majority of the population of Austria is not of the same “ race ” as the applicants.

3. A careful examination of the context of the Article shows, however, that the word "race" is used in a political sense as denoting the territorial nationalities and fragments of such nationalities which constituted the former Austrian State. Thus the list of countries for which the option may be exercised is limited to those of the recognised nationalities, and no room is left for "races" or any categories of persons not comprised within those nationalities. It follows that the right of option of a Jew must be tested, not by some obscure and elusive genealogical enquiries, but by language, as provided by the Article, and by political association which is the real intent of the word "race."

4. How true this is is shown by the interpretation placed upon the Article by the Austrian Government itself in paragraph 6 of the Decree providing for the Execution of the Treaty which was published on August 20, 1920. This paragraph, which gives precise directions for the execution of Article 80, knows nothing of the anthropological connotation of the word "race" as used in the Article, but assumes as an obvious fact that it means nationality in the Austrian political sense of the word. Acting on this assumption it directs that optants for Austrian nationality must prove their right linguistically and politically, that is by educational certificates, extracts from census returns and membership of national circles of electors. Failing such documentary evidence oral testimony that German is the idiom of the applicant suffices.

5. The same view was taken by the Austrian Government in the Treaty it concluded with the Czechoslovak Republic on June 7, 1920. Article 9 of that Treaty runs as follows:

"The two Contracting Parties have agreed that they will mutually carry out the provisions of Article 80 of the Treaty with Austria (Article 3, 2nd paragraph, of the Treaty with the Czechoslovak Republic) relating to the right of option, in a liberal spirit and that, in particular, the words "par la race et la langue" shall be held to imply that, generally speaking, language shall in practice be considered as the most important evidence of national origin.

6. A further reason for believing that the word "race" was never regarded by the Austrian signatories of the Treaty of St. Germain as referring to Jews is that in Austrian law there is no such thing as a Jewish race or even a Jewish nationality. As in all Western countries, Jews were recognised as a religious community only—Austrian subjects professing the Jewish religion. For the most part they were of German speech, and consequently belonged to the German nationality, which is dominant in Austria, but there was nothing to prevent them belonging to other nationalities, and in Trieste, for example, the local Jews were always overwhelmingly Italian. If anything but a religious test were applied to Jews the racial interpretation of Article 80 would lead to grotesque difficulties owing to the many conversions from Judaism to Christianity and even from Christianity to Judaism.

7. Apart from the context of Article 80 and the above cited avowals of the Austrian Government there are other reasons for holding that the framers of the Treaty never contemplated the interpretation now sought to be placed on the word "race." They could not have used the word in its anthropological sense seeing that, in that sense, it is admittedly vague and variable and has no fixed

and generally accepted scientific definition. Nor could they have contemplated that the word would be so interpreted as to confer a right which could never be exercised. For this is the absurd result so far as the Jews are concerned, because while they have a right to opt for a nationality in which their "race" is in the majority there is no nationality within the geographical limits of the Article in which such a majority exists.

8. Further evidence of the views of the Paris Peace Conference on this head is afforded by the Minority Treaties. It will be observed that the effect of the present interpretation of Article 80 by the Austrian Government would be to confer on the Jews a separate national status on the same footing as the Czechs, Poles, Serbs and other recognised "nationalities." Now, in connection with the Minority Treaties, a proposal to this effect was actually rejected by the Peace Conference, and, in the case of Poland, M. Clemenceau, on behalf of the Supreme Council, addressed a letter to M. Paderewski in which the recognition of any "political separatism" for Jews was formally repudiated. Seeing that the Minority Clauses of the Treaty of St. Germain are identical with those of the Minority Treaty with Poland, it is clear that there could be no idea of recognising the Jews of the former Austrian Empire as holding any political status distinct from that arising from their linguistic affiliation.

9. For these reasons it is submitted that the interpretation of Article 80 of the Treaty of St. Germain by the Austrian Government, in the cases of Jews who claim the benefit of the Article, is harsh and unreasonable, and that moreover it is not the true interpretation of the Article as intended by the framers of the Treaty.

No. 4.

(Mr. Lucien Wolf to the President of the Assembly.)

Hotel d'Angleterre, Geneva,

September 9th, 1922.

Sir,—With reference to my letter of August 31st, embodying an appeal to the Assembly of the League of Nations respecting the Austrian interpretation of Article 80 of the Treaty of St. Germain-en-Laye, I have the honour to forward to Your Excellency herewith a copy of a Memorandum in which the Austrian juridical view of the aforesaid Article is set forth.

I am instructed to ask Your Excellency to be good enough to add this Memorandum to the documents already forwarded to Your Excellency for communication to the Assembly.

I have the honour to be, Your Excellency's most obedient servant,

LUCIEN WOLF,

Secretary and Special Delegate of the Board of Deputies of the
British Jews and the Anglo-Jewish Association.

His Excellency the President of the Assembly
of the League of Nations.

(Enclosure in No. 4.)

MEMORANDUM ON THE AUSTRIAN JURIDICAL VIEW OF THE PROPER CONSTRUCTION OF THE WORD " RACE " IN ARTICLE 80 OF THE TREATY OF ST. GERMAIN-EN-LAYE.
(Translated from the German.)

1. *How the word " race " in Article 80 should not be construed.*

The meaning of " race," a word which is *quite foreign* to the ordinary legal language of Austria, must not be construed in an anthropological sense. The famous geographer, Dr. E. Oberhammer, Professor at the University of Vienna, in an article in the " Neue Freie Presse " (evening issue of October 27, 1921), dealing with the etymological derivation of the word, quotes Littré, *tous ceux qui viennent d'une même famille* (all who come from the same family); he then quotes phrases such as *être d'une bonne race* (to be of a good race), *de race royale* (of royal race), refers to similar definitions in Italian dictionaries, and finally quotes Bossuet, according to whom, after Clovis and his successors, *une autre race* (another race)—the Carolingians—ruled in France. He concludes the article, " It may be stated with certainty that Article 80, when mentioning the inhabitants of the monarchy *qui diffèrent par la race* (differing in race), cannot refer to anthropological characteristics."

The same view was taken by Deputy Seitz, who, in his then quality as President of the National Assembly, signed the Treaty of St. Germain and its publication in the Official Gazette. In his speech in the Austrian National Assembly on November 22, 1921, he stated:—

" Undoubtedly race does not mean what the word conveys to us in ordinary every day language."

2. *How, then, is this word " race " to be defined?*

The eminent Jurist, Dr. Julius Ofner, for many years a deputy in the Austrian Imperial Council and permanent " Reporter " of the Austrian Constitutional Court, the highest Court for questions pertaining to the Constitution, declares in an article published in the morning issue of the " Neue Freie Presse," of August 12, 1921, entitled " The Option Right of the Jews," that the term " race " in the Treaty of Peace must be regarded as identical with " Nationality," which means the different peoples united in the Austro-Hungarian Monarchy, *i.e.*, the Germans, Czechs, Slovaks, etc.

(a) This explanation is fully borne out by Article 80, for according to this Article the persons mentioned therein may opt for Austria, Italy, Poland, Rumania, the Serb-Croat-Slovene State or Czecho-Slovakia. Thus, all national States which were formed out of the *Nationalities* united in the former Austria are enumerated. (Hungary is dealt with in the Treaty of Trianon.) Only the Ruthenians are missing, but they were evidently lumped with the Poles, with whom they were united in the former Austrian Province of Galicia. Nor are the *Jews* mentioned here, because, as will be shown hereafter, they were *not considered a Nationality* in the former Austria.

(b) This construction also results from other stipulations of the Treaty of Peace, especially from Articles 51, 57 and 60, which provide that the Serb-Croat-Slovene State (Article 51), Czecho-Slovakia (57), Roumania (60) agree to the insertion in the Treaties to be concluded with the Principal Allied and Associated Powers, of stipulations *pour protéger les intérêts des habitants, qui diffèrent de la majorité de la population par la race, la langue, et la religion* (to protect the interests of the inhabitants who differ from the majority of the population in race, language or religion). In the *official* Austrian translation of the Treaty of Peace this sentence reads, "for the protection of the *national* minorities of language and religion." Thus, according to the point of view of the Austrian Government itself, at that time, "race" is identical with national minority, *i.e.*, *Nationality*. The Treaty of Peace had to consider the national minorities which are also in existence in the new Austria; for instance, in Karinthia there are Slovaks, in the Burgenland Croats and Magyars. And even in the French original text of the Treaty of Peace "race" is strictly considered an equivalent of "nationality." For instance, in Articles 67 and 68 *minorités ethniques* are mentioned, undoubtedly meaning the same as "national minorities," *i.e.*, identical with "race," as in the above Articles 51, 57, 60.

3. Now how can the Nationality (race) of single individuals be ascertained?

The late Professor at the University of Vienna, Dr. Edmund Bernatzik, an authority on Austrian Constitutional Law and Administrative Practice, who made the Nationality Question in former Austria his special study, in a famous inaugural address as Rector, which has been published under the title, "On National Criteria," explained first of all which criteria are *not* suitable to decide Nationality.

(a) He refuses to recognise as a characteristic the origin ("Nation," as derived from *natus*), this being, according to him, the antiquated, and no longer tenable, definition of a conception according to which Nationality is inherited and thus unalterable. He refuses to recognise this derivation because the origin (descent) cannot be proved. It is a known fact that no people in Europe has kept itself pure in the course of thousands of years, and that a very considerable "mixture of blood" has occurred everywhere.

(b) In opposition to the three expert opinions of the Statistical Congress at St. Petersburg in 1873 (Ficker, Keleti and Glatter), Bernatzik also rejects the conversational language as a criterion of Nationality because "intercourse is frequently conditioned by circumstances independent of the individual will."

(c) Bernatzik contends that the modern conception of Nationality means "*Community of intellectual values, of culture; to know oneself in full harmony (in oneness) with the history, the future and the present of a people.*" "It is something that is acquired by free self-determination and is then not unalterable. Thus the decisive criterion of Nationality can only be the *Avowal*" (page 25 *ibid*). Also, Deputy Seitz, in the above-mentioned speech, says: "One thinks of race as a certain community of the people, a community of culture or perhaps a community of historical development." Again, the Austrian Court for Administrative cases, the highest Court for Administrative Law, recognises in its decision Z1 804, 1922, that the word "race" in Article 80 can only be construed to mean the *cultural community* of a people.

(d) Bernatzik's point of view that the "avowal" is the only determining criterion of Nationality was expressed in the Austrian Legislature before his rectoral address. The electoral law of Moravia—a former Austrian province—in the law of November 27, 1905 (provincial Law Journal, No. 2, 1906), classifies all electors as either electors of Bohemian (Czech) or electors of German nationality. Under clause 71/7 every elector was entitled, "by declaring that he belonged to the other nationality (different to the nationality given him in the official register) to have his name inscribed in the other list as desired by him," and clause 71/7 provides: "Every elector has to register personally in his own handwriting in the list of the nationality which he claims (avows)." Thus, whosoever was registered in the respective lists had to be recognised as German or Czech, and since this right, viz., to demand registration in a certain list was conceded to the numerous Jewish electors, the Jewish elector in Moravia, when registered in the German list, was to be considered a *German*.

Such national electoral bodies had also been established in the Bukowina, viz., Germans, Roumanians, Ruthenians and Armenopoles. There is no doubt that had Austria continued to exist such national electoral bodies on the basis of an avowed nationality would have been established in the other provinces inhabited by different nationalities.

(e) Also the Austrian administrative practice and the decisions of the Courts adopt the point of view that "avowal" is to be considered the criterion of nationality. In the decision of the Administrative Court, dated June 3, 1896, No. 9708 (Collection Budwinski), dealing with the obligation of a Czech Community to establish a German "Minority School," the Court quoted a decision of the Ministry of Education that "in default of other criteria the question to which *nationality a party belongs can only be decided* on the basis of a declaration made (se. avowal)." At the same time the Administrative Court declared that the declaration of the parents who *professed and avowed German nationality* was in itself sufficient, that the law does not contain any provisions for the institution of enquiries as to descent or native tongue and language of intercourse.

The opinion of the Ministry as quoted above has been confirmed in almost the same words by the Administrative Court and also by the Imperial Court (now the Constitutional Court) in similar decisions (introduction to Par. 2).

4. *Conclusions from Par. 3 with reference to the Jews.*

(a) In his article quoted in Par. 2 (introduction) Dr. Ofner says: "Without any opposition the Jews were declared to be Germans, Czechs, etc., according to the nationality to which they belonged by virtue of the language they spoke, their education and their avowal of nationality, etc."

(b) Hitherto a Jewish Nationality had not been recognised either in old or in new Austria; as set forth sub Par. 3d there existed in Moravia a German and a Bohemian Nationality, but no Jewish Nationality, and in the Bukowina, with its numerous Jewish population, they had no Jewish Nationality. There they had not the electoral option as in Moravia, but were all entered on the German

lists. Very likely the underlying idea was that wherever the Jews lived among Germans in Austria they always made common cause with the German electorate.

(c) In considered legal decisions it has been expressly declared that the Jews in Austria are not to be considered as a Nationality. A decision of the Imperial Court (now Court of Constitutional Affairs) (see introduction to Par. 2), dated November 26, 1909 (No. 4722, collection Hye-Slunk) states, *inter alia*: "The whole historical development of Austrian legislation, dealing with the legal status of the Jews, *tends to consider* the Jews not as a separate people (Nationality), but as a religious Community, and to treat them as such."

(d) Thus, Professor Dr. Bernatzik (introduction Par. 3), in his work, "The Austrian Law of Nationality," 1917, enumerates the following Nationalities living in Austria: Germans, Czechs, Poles, Ruthenians, Slovaks, Serbs, Croats, Ladinians, Italians, Roumanians, Magyars (in the Bukowina). He does not mention the Jews as a Nationality, although in old Austria their number exceeded the total of Ladinians, Roumanians and Magyars. The *German* Deputy of the National Assembly in Prague, Dr. Wilhelm Medinger, in an article in the "Neue Freie Presse" (November 19, 1921), enumerates the Nationalities in old Austria as follows: "Old Austria was composed of 37 per cent. Germans, 18 per cent. Czechs, 16 per cent. Poles, 14 per cent. Ruthenians, 5 per cent. Slovaks, 4 per cent. Slovenes, 3 per cent. Italians, the remainder being Magyars and Roumanians." Thus, it appears that this authority on old Austria likewise does not mention the Jews in his list of Nationalities.

5. *And if the Jews do not form a separate Nationality in Austria the next question to be answered is: To which other Austrian Nationality do they belong?*

(a) Bernatzik states: (cf. Par. 3c) "The modern conception of *Nationality* means: *Community of intellectual values, of culture, to know oneself in full harmony (in oneness) with the history, the future and the present of a people.*" He also declares a developed language to be an important criterion of the community of Nationality. All these criteria of Nationality the *Jews* in Austria share jointly with the German population. The community of culture has existed since immemorial times, the Jews having been settled in Austria for more than a thousand years. This culture can only be the *German*. The Jews in old Austria, and, above all, those living in the present Republic, having been instructed in German educational establishments, they can thus think in German only, which is their native language; they know themselves to be in "oneness" with the history of Austria. Thousands and thousands again have given their lives for Austria in the Great War, just as the French and English Jew gave his life for his native country. Their fate and happiness are, as a matter of course, dependent on Austria's welfare. They have borne testimony to their avowal of Germanism, having been the most loyal allies of the Germans in the strife of Nationalities under the old régime.

(b) These criteria of a community of nationality are well represented by most of the Jewish applicants for option who have been refused. Most of them were born in Vienna or in another German town of the former or the present Austria; they, and, as a rule, their parents or their forefathers, have been living in such a town for generations; their native tongue and language of intercourse was, and is, German; they were educated in Austrian German Schools; they bring up their children in the German language. Whatever may be their trade or calling they can think, speak and carry on in this language only, and the place in which, according to the laws of old Austria, they have their "Heimatsrecht" (*pertinenza*) is for most of them entirely *terra incognita*. They have never been there; they do not understand a non-German language, as, for instance, the Czech language; their culture is pure German, etc.

6. *What the framers of the Treaty of Peace intended:—*

(a) The Jews are a religious minority (see Par. 4c). As such they are protected in the non-Austrian succession States by the stipulations of Articles 51, 57, 60 (see Par. 2b), and in Austria by the stipulations of Article 63 (see also Articles 66, 67, 69) Austria guarantees safety of life, etc., to all inhabitants *without regard to their religion*.

(b) By virtue of these stipulations the authors of the Treaty of Peace have guaranteed *all* inhabitants of the new States *equality* of rights without regard to their creed, the rights emanating from the Treaty of Peace, i.e., also the rights emanating from Article 80. The latter cannot be dependent on the religious creed of the individual. Certainly the authors of the Treaty never wanted to withhold from the Jews (to exclude the Jews from) a right which they vouchsafed to *all other inhabitants* of the different States. According to the Treaty of Peace the Jews were to enjoy all the same civil and political rights as the other inhabitants of the new States, and yet it is proposed to *exclude them from the right of opting!* Such an exclusion clashes decidedly with the clear intentions of the framers of the Treaty of Peace and of the then representative of the Austrian Republic.

But were we to assume that, according to the Treaty of Peace, the Jews are to be considered as a separate "Race" (Nationality)—an assumption which, as demonstrated, would be absurd—they would then be doubly protected under this Treaty, Articles 51, 57, 60 (see Par. 2b), Articles 63, 66, 67, 69 (see Par. 6a), viz., both as a religious Minority and as a Nationality. Such an increased protection would again clash with the intentions of the framers of the Treaty of Peace, who did not wish to give preference to any one group of the inhabitants of the respective States. In old Austria the other Nationalities only had separate National educational rights and rights pertaining to the holding of office. The Jews never had such rights, and no protection was needed for such rights just because the Jews formed no separate Nationality. Thus, even from this point of view, it cannot be inferred from the Treaty of Peace that it (the Treaty of Peace) wanted the Jews to be considered as a separate Nationality.

C.—ILL-TREATMENT OF HUNGARIAN JEWS.

No. 5.

(The Joint Foreign Committee to the League of Nations.)

August 23rd, 1922.

Sir,—I am directed by this Committee to ask you to be good enough to submit to the Members of the Council of the League of Nations, as a matter of urgency, the following information relative to impending pogroms in Hungary which has reached this Committee from a reliable source.

The information is to the effect that a marked stimulus has lately been given to anti-Semitic agitation in Hungary, and that a number of anti-Semitic organisations have become federated under the name of "The League for the Protection of the Apostolic Cross." The leaders of the new movement are the notorious Commandant Hejjas, who was lately prosecuted for incitement to murder of Jews, and Deputy George Hir, also a prominent advocate of violence against the Jews. Mass meetings have been held in a large number of Hungarian towns to celebrate the fusion of the anti-Semitic societies, and, owing to the popular excitement caused by these meetings and the incendiary speeches of Commandant Hejjas and his lieutenants, widespread pogroms are feared. In Western Hungary, where the excitement is very great, the Jewish population is stated to be panic-stricken, and large numbers of Jews are fleeing to the capital for protection.

This serious situation constitutes a "danger of infraction" of Article 55 of the Treaty of Trianon in the sense of Article 60 of the same Treaty, and I am directed to ask that in communicating it to the Members of the Council you will kindly consider whether it does not justify the use of the procedure laid down for urgent cases in the Report of Signor Tittoni, which was adopted by the Council of the League of Nations in Brussels on October 27, 1920. My Committee venture also to suggest that although Hungary is not yet a member of the League of Nations, it might be well to communicate the above complaint to the Government of that country at the same time that the Members of the Council are notified.

I have the honour to be,

Sir,

Your most obedient humble servant,

LUCIEN WOLF,

Secretary

The Hon. Sir Eric Drummond, K.C.M.G.,
Secretary-General,
The League of Nations, Geneva.

No. 6.

(The Secretary-General of the League of Nations to the Joint Foreign Committee.)

League of Nations, Geneva,

August 26th, 1922.

Sir,—I have the honour to acknowledge the receipt of your letter of August 23, 1922, concerning the situation of the Jewish Minorities in Hungary.

In accordance with the procedure laid down for urgent cases in the Council Resolution of June 27, 1921, relative to the protection of Minorities, the letter has been communicated to the Hungarian Representative in Geneva and to the Members of the Council for information.

I have the honour to be,

Sir,

Your most obedient servant,
For the Secretary-General,

ERIK COLBAN.

Director of the Administrative Commissions and Minorities Section.

Lucien Wolf, Esq.,

Secretary to the Joint Foreign Committee of the Jewish Board of Deputies
and the Anglo-Jewish Association,

2, Verulam Buildings, Gray's Inn, London, W.C.1.

No. 7.

(Mr. Lucien Wolf to Sir Eric Drummond.)

Hotel d'Angleterre, Geneva,

September 8th, 1922.

Sir,—With reference to my letter of the 22nd August, relative to the insecurity of Jewish life and liberty in Hungary, I have the honour to forward to you herewith a copy of a message from Budapest which has been received by my Committee and from which it appears that attacks on Jews have taken place in several towns in Hungary, and that the anti-Semitic agitation is assuming a very alarming form.

I shall feel obliged if you will kindly communicate this message, together with my letter of August 22, to the Committee of the Assembly which is dealing with the application of Hungary for membership of the League of Nations.

My Committee does not desire to oppose this application, but it thinks that the attention of the Hungarian Government should be called to the situation of the Jews in Hungary, inasmuch as it constitutes an infraction of Article 55 of the Treaty of Trianon. It should also be pointed out that the recent discriminating educational legislation of Hungary in regard to the Jews is in direct conflict with the provisions of Articles 56 and 57 of the same Treaty, and that consequently Hungary is in default in her Treaty obligations in the sense of Article I. of the Covenant.

I am, Sir,

Your obedient servant,

LUCIEN WOLF,

Secretary and Special Delegate.

The Hon. Sir Eric Drummond, K.C.M.G.,

Secretary-General,

League of Nations.

(Enclosure in No. 7.)

COPY OF MESSAGE FROM BUDAPEST.

The Social Democratic paper here, the "Nepszava," reports fresh outbreaks against the Jews. On Saturday night and Sunday morning, August 19th and 20th, bands of the "Awakening Magyars" went through the streets of the capital demanding that the passers-by should state their religion. Jews were attacked and beaten. A policeman named Georg Orban, who attempted to come to the aid of some of the victims was shot down.

In Leopoldstadt, a gang of twelve students belonging to the "Awakening Magyars" went through the streets beating the Jewish inhabitants.

In Keeskemet, the Hejas bands entered the house of Dr. Franz Pataky and beat him so severely that it is feared he will not survive. They proceeded to the Hotel Royal in Keeskemet, smashing the windows and beating all Jews found on the premises. One Jewish family was spirited away. Isak Stern, a merchant, travelling to the market at Ozd, with his mother and brother, carrying a large sum of money with him, was attacked in the forest of Vadua. There is no trace of any of them.

On Friday, September 1st, Jews passing through the streets of Budapest were attacked and severely wounded. Jewish customers were ejected from the cafés Three Jews were knifed in the head.

The newspapers of the so-called Christian régime are calling upon the populace to settle accounts with the Jews on the lines of the Fascisti.

No. 8.

(Extract from Report of the Sixth Committee on the admission of Hungary, September 15th, 1922.)

. . . . The Sub-Committee requested Count Banffy, Hungarian Minister for Foreign Affairs, to make a statement. In the course of the subsequent discussion, the Chairman of the Sub-Committee reminded Count Banffy of the conditions governing the admission of a State to the League of Nations which arise out of the provisions of Article I. of the Covenant.

His Excellency Count Banffy replied in the following statement:—

" It is also my duty to declare in the name of my Government, which, when requesting the admission of Hungary, is backed by the overwhelming majority of the Nation, that Hungary sincerely means to fulfil the regulations of the League of Nations, the Treaties concluded and all International obligations

" I here solemnly invoke Article I. of the Covenant.

" If my application should render further explanation necessary during your discussions I am entirely at your disposal."

The members of the Sub-Committee took note of the assurances contained in Count Banffy's statement, and drew his attention to certain points regarding the execution of the clauses of the Treaty of Trianon relating to the reduction of armaments and also to the other International engagements assumed by Hungary, particularly with regard to the protection of Minorities, defined in Articles 54 to 60 of that Treaty.

The members of the Sub-Committee then decided unanimously to recommend the Sixth Committee to propose to the Assembly that Hungary should be admitted to the League of Nations, as they were of opinion that the requirements of the Covenant were fulfilled by the solemn engagement taken by Count Banffy on behalf of his Government that Hungary would observe all her International obligations in accordance with the Treaties or any acts subsequent to their signature.

No. 9.

(Speech of the Right Hon. H. A. L. Fisher, M.P., in the Sixth Committee, September 15, 1922.)

Mr. Fisher (British Empire) moved the adoption of the Report. He said that the British Government had felt some anxiety in regard to the fulfilment by Hungary of the military clauses of the Treaties and the attitude of Hungary towards her Minorities. These misgivings, however, had been completely set at rest by the declaration of Count Banffy. On behalf of the British Delegation, he was happy to welcome Hungary into the circle of the League.

(Journal of the Third Assembly, p. 129.)

No. 10.

(Mr. Lucien Wolf to Count Nicolas Banffy.)

Hotel d'Angleterre, Geneva,
September 15th, 1922.

Your Excellency,—I have to thank Your Excellency for your great courtesy in allowing me to discuss with you certain grievances of the Hungarian Jews and for the assurances you were good enough to give me in their regard. As I am anxious to communicate the purport of our conversation to my Committee in Great Britain and to the Jewish Societies in other countries with whom we act, I shall be glad if Your Excellency will kindly confirm the following summary of what I understood you to say.

In the first place Your Excellency declared that there could be no question of Hungary departing, in any way, from either the letter or the spirit of the Minorities Section of the Treaty of Trianon. Hungary would be faithful to all her International obligations, and on this head has already given the League of Nations effective guarantees in the sense of Article 1 of the Covenant.

With regard to the complaint of the insecurity of Jewish life and liberty in Hungary, Your Excellency pointed out to me that Hungary had undergone the strain of a disastrous war and of two revolutions, and that in the passions which had thus been stirred many deplorable events had undoubtedly happened. The recent general elections had, however, inaugurated a new era of liberalism

and political consolidation. The present Government, devoted to liberal principles, had an overwhelming majority in Parliament, and it was noteworthy, as illustrating the sobriety and moderation of national opinion, that the parties of disorder from whom the Jews had suffered had secured only one seat in the Chamber. You added that the Government were resolved to deal with all incitements to violence and other breaches of the law with a firm hand, and this was shown by the recent trials of persons accused of anti-Semitic crimes.

On the subject of the Law of September 26, 1920, concerning the admission of students to the Hungarian Universities and Academies, Your Excellency explained to me that the intentions of the Hungarian Government were not, in any way, to evade the provisions of Articles 56-58 (Section VI.: Protection of Minorities) of the Treaty of Trianon, but rather to assure their proper fulfilment under the new conditions by which the total number of students admitted to the Universities and Academies is limited to the reduced absorbing capacity of Hungary. You stated that if within this limitation provision were not made for the just representation of all religions and races in Hungary, those belonging to religious and racial Minorities would probably suffer, as the tendency might, in that case, be to favour the majority. At the same time Your Excellency assured me that the numerical proportions laid down in the Law are only minimum proportions, and that in the case of Jewish students they have always been largely exceeded, both on the basis of the numerical proportion of Jews in the general population of the country, and on that of their much higher proportion in the urban populations. Finally, Your Excellency stated that the Law under discussion was not the work of the present Government, and that so far as that Government is concerned it will be administered in accordance with the foregoing statement of its objects. You also expressed your confidence that in its application the Hungarian Jews will not suffer in any way.

I do not doubt that my Committee will receive this statement of the attitude of your Government with the utmost satisfaction, and that they will watch its fulfilment with patience and sympathy. At the same time I am sure they would wish me to say that their view as to the incompatibility of certain provisions of the above-mentioned Law of September 26, 1920, with the stipulations of Articles 56-58 of the Treaty of Trianon remains unaltered. They trust that when an opportunity offers your Government will take steps to so amend the Law as to remove this serious defect which, if allowed to remain, might have deplorable consequences both as a precedent for ignoring the strict letter of the Rights of Minorities as laid down in the Treaties and as creating an instrument which, in the hands of unscrupulous persons, might be used to oppress religious and racial Minorities in Hungary.

It has been a great pleasure to me to renew with Your Excellency the friendly relations we formed in London two years ago, and I beg of Your Excellency to,

Believe me,

Very faithfully yours,

LUCIEN WOLF,

Secretary and Special Delegate.

His Excellency Count Nicolas Banffy,
Hungarian Minister for Foreign Affairs.

No. 11.

(Count Banffy to Mr. Lucien Wolf.)

Le Ministre Royal des Affaires Etrangères,
Geneva,

September 19th, 1922.

Dear Mr. Wolf,—Immediately after our conversation I telegraphed home to have further statistical details. The "courier" will arrive the very next days. I didn't answer till now, because I thought that he could arrive before this Tuesday.

Your letter perfectly contains the purport of what I said.

Believe me,

Very sincerely yours,

C. N. BANFFY.

No. 12.

(Extract from speech of M. Osuski in the Assembly, September 18, 1922.)

M. Osuski (Czecho-Slovakia) said: . . . The Treaty of Trianon, which the Hungarian Government signed, states that all Hungarian nationals shall be equal before the law, and shall enjoy equal civil and political rights without distinction of race, language or religion.

I will not allude to the situation of Minorities in Hungary, but I feel bound to remind you that in 1920 the Budapest Parliament passed a law entitled *Numerus Clausus*, Article 25 of which provides that only persons whose national and moral sentiments could be absolutely depended upon were to be permitted to enter the colleges and universities.

The severity of this measure was further increased by a decree, No. 123033, of October 27, 1920, which laid down that a special permit would henceforward be necessary for admission to any college or university.

On June 20, 1922, Joseph Pakots, a Deputy speaking in the Budapest Parliament, declared, in regard to this law, that no country in the world, except Hungary, would have dared to exclude certain members of the community from higher education.

On June 27, 1922, another Deputy, Edouard Hebeit, protested against this law, and stated that hundreds of students, especially Jews, had been obliged to seek higher education in other countries.

I need not say that the law in question is directed against non-Magyar races, particularly against Hungarian Jews.

Requests for the abrogation of the *Numerus Clausus* law have repeatedly been made to the Minister of Education, who, according to Pesti Naplo, of April 14, 1922, has replied that there could be no question of its abrogation, since it was dictated by the necessity of protecting the Hungarian race.

In these circumstances, gentlemen, you will doubtless ask on what basis your Sixth Committee was able to propose unanimously that Hungary should be admitted to the League of Nations. In the report of the Sixth Committee you will find it stated that this decision was based upon the solemn undertaking given by Count Banffy, on behalf of his Government, that Hungary would observe all her International obligations in accordance with the Treaties or any acts subsequent to their signature.

No. 13.

(Report on the "Numerus Clausus" submitted to the Council by the Committee on Minorities, September 27, 1922.)

The Joint Foreign Committee of the Jewish Board of Deputies and the Anglo-Jewish Association and the Alliance Israelite Universelle, in November, 1921, addressed petitions to the League of Nations with regard to the Hungarian Law XXV. of 1920. (*Numerus Clausus*.) These petitions were communicated for the observations of the Hungarian Government, and the Government replied in January, 1922.

The petitions may be summarised as follows:—

(a) The Hungarian Law XXV. of the year 1920 lays down in Article I. that only the names of such persons shall be inscribed on the rolls of universities and other institutions for higher education as are known to be of absolutely unimpeachable national loyalty and morality; and only a limited number of these may be enrolled with a view to ensuring their thorough training.

In Article III. the Law stipulates that, in addition to the requirement regarding national loyalty and morality, the intellectual capacity of the candidates shall be taken into consideration; and, further, that care shall be taken that the number of students of different races and nationalities shall be in proportion to the number of inhabitants of the races and nationalities of the country, and that each race or nationality shall be represented in a proportion of at least nine-tenths of its respective proportion in the country.

(b) The petition of the Joint Foreign Committee states that this law clearly constitutes an infringement of Articles 56, 57 and 58 of the Treaty of Trianon. These articles recognise as Hungarian nationals all persons who had, at the date of the coming into force of the Treaty, their rights of citizenship within Hungarian territory, or who were born in that territory and were not born nationals of another State, and these Articles declare that all Hungarian nationals shall be equal before the law and shall enjoy the same civil and political rights, without distinction of race, language or religion.

(c) The petition of the Jewish Alliance protests against the application of this law to Jews, and points out that the Law in question only mentions students of different *race* and *nationality*, and that, therefore, it does not apply to Jews, who, in the opinion of the petitioners, only constitute a *religious* minority.

The reply of the Hungarian Government states that Law XXV., 1920, has a two-fold object in view:—

- (a) To reduce the number of the intellectual proletariat.
- (b) To guarantee the rights of Minorities.

In view of the fact that the territory of Hungary has been greatly reduced since the war, it has become necessary to limit the number of students in Hungary, and especially the number of those who are studying with a view to

entering the service of the State. In reducing the number of students the following considerations in addition to the question of mental capacity are taken into account.

1. In consequence of the events which occurred during the period of the dictatorship of the working classes, the State wished to obtain guarantees of the patriotic loyalty of its future officials.

2. The number of young men belonging to the various races and nationalities which inhabit the territory of the country to be admitted to the Universities should, as far as possible, be in proportion to the number of the inhabitants of the races of nationalities in question.

So far from constituting an infringement of the provisions of the Treaty regarding the rights of Minorities, the last point is, in the opinion of the Hungarian Government, more in the nature of a codification of those rights in respect of freedom of instruction.

The Hungarian Government emphasises the fact that the Jews have in reality received very favourable treatment as regards admission to the Universities of the country.

In pursuance of the resolution of the Council of October 25, 1920, the Belgian representative, who was then President of the Council, invited the Spanish and Chinese representatives to join him in investigating this question. The members of this Committee felt that they ought primarily to obtain information as to the manner in which the law is applied, and whether, in practice, the legitimate rights of Minorities are disregarded. The Hungarian Government asserts that that is not the case, and that it intends to apply the law in accordance with the imperative needs of the Hungarian nation, but with full regard for the rights and interests of Minorities.

In these circumstances, *we recommend that the Council* should request the Hungarian Government to supply it with the necessary information in order that it may be in a position to follow closely for a certain time the application of Law XXV. of 1920.

No. 14.

(From the Jewish Correspondence Bureau, October 12th, 1921.)

Budapest (J.C.B. Service).

On his return from the League of Nations Assembly at Geneva, Count Banffy, Hungarian Minister for Foreign Affairs, made certain arrangements with Count Klebelsberg, Minister for Education, for a milder application of the *numerus clausus* in the case of Jewish students. Count Klebelsberg thereupon invited the representatives of the Budapest Jewish Community and of the Jewish students to meet him, and assured them that the Government was doing everything possible to act in accordance with the undertakings given by Count Banffy at Geneva. It was not possible, however, at one stroke to abolish the law of the *Numerus Clausus*, and he asked the Jewish representatives therefore to submit to him a list of rejected Jewish students and he would write out for each of

them a special recommendation to the entrance examination body of the high schools. In many cases this special recommendation of the Minister for Education has been successful in bringing about the acceptance of the students at the high schools. There are numerous cases, however, where it has not availed, because the chairman of the examination body, Professor Horr, is a notorious anti-Semite. When Count Klebelsberg was informed that there had been rejections in spite of his recommendation, he showed great concern and explained that it was not the first time that Professor Horr had ignored Ministerial instructions in matters affecting the Jews. Nothing further is being done to obtain a reversal of the decision of Professor Horr.

Budapest (J.C.B. Service).

Much comment has been caused in Government circles here over the fact that the League of Nations Assembly in Geneva took heed of the protest submitted by the Joint Foreign Committee of the Board of Deputies of British Jews and the Anglo-Jewish Association against the *Numerus Clausus* in Hungary. In political circles and in the Government Press this is denounced as an unwarranted interference in internal Hungarian affairs.

Despite all statements to the contrary, the *Numerus Clausus* in Hungary is applied only in the case of Jews. No other race or religious sect is affected. Even in cases where Christian students do not apply in sufficient number to fill the vacancies, Jews are not permitted to enter the school or university in excess of the numbers fixed under the *Numerus Clausus*, and the places are allowed to remain vacant.

Recently, a student named Franz Szekeli applied for admission to the Budapest Polytechnic. Szekeli was a soldier in the Hungarian Army during the war, who distinguished himself for his bravery and won numerous distinctions. Under the regulations, therefore, the *Numerus Clausus* should not be operative in his case. Nevertheless, his application for admission was rejected.

Szekeli interviewed the Rector and asked the reason for the rejection. The Rector replied that he had been informed that Szekeli was a Communist. Szekeli thereupon protested against the allegation, and pointed out that he had fought as an officer in the counter-revolutionary army against the Communists. He then brought an action for libel against unknown persons, and cited the Rector of the Polytechnic as witness to identify the persons responsible for the defamation. The Polytechnic, however, pleaded its right of immunity and Szekeli has received no satisfaction.

D.—MINORITY RIGHTS IN ESTHONIA AND LATVIA.

No. 15.

(Joint Foreign Committee to League of Nations.)

Hotel d'Angleterre, Geneva,
September 8th, 1922.

Sir,—With reference to the assurances in regard to the treatment of Minorities which the Governments of Esthonia and Latvia are being required to give to the League of Nations as a condition of their membership of the League, I am directed by this Committee to express the hope that these assurances will be in the form already accepted by Lithuania, in which country the situation of the Jewish Minority is very similar to that of their co-religionists in the above-mentioned Baltic Republics. There is, however, this difference. While in Lithuania the treatment of the Jewish Minority has been, and is still, quite satisfactory, in Latvia it leaves much to be desired, especially in regard to the application of the principles laid down in the Minority Treaties. On this subject my Committee desires to associate itself with a Memorial on the situation of the Jews in Latvia, which has been forwarded to the League by the Comité des Délégations Juives of Paris.

I shall feel obliged if you will bring the foregoing observations to the notice of the Council of the League or of any other body which may be dealing with the question to which they relate.

I am, Sir,

Your obedient servant,

LUCIEN WOLF,
Secretary and Special Delegate

The Hon. Sir Eric Drummond, K.C.M.G.,
Secretary-General,
League of Nations.

No. 16.

(Report on Minorities in Esthonia presented to the Council by M. de Gama, September 20, 1922.—Extract.)

. . . . I think I should point out to the Council that the declaration made by the first Delegate for Esthonia at the Second Assembly on September 13, 1921, was not intended to state whether the Esthonian legislation provided equitable treatment for minorities. The wording of the declaration of September 13, 1921, seems to contemplate the establishment of certain rules defining Esthonia's International obligations for the protection of Minorities. I have, therefore, drawn up a draft declaration which is in general conformity with the stipulations in the Treaties for the protection of Minorities, especially the rule that the obligations for the protection of Minorities shall be recognised as being of International concern, and placed under the guarantee of the League of Nations.

The Esthonian representative refers to the case of Finland, and to avoid all misunderstanding, I ought to explain that Finland, at the time of her entry into the League of Nations, had not signed a declaration of the same kind as that of the Esthonian Government, dated September 13, 1921. It must also be remembered that Finland was not a new State. Moreover, Finland accepted the guarantee of the League of Nations for a Minority on her territory of special importance, namely, the population of the Aaland Islands.

The Esthonian representative also makes certain remarks of a legal nature concerning the draft declaration which I have the honour to submit to the Council.

He explains that the Minorities Treaties, on which this draft is based, cannot be regarded as models of International Treaties because of their origin. In his opinion, the Treaties constitute, so to speak, the charter of recognition of certain States within their new ethnographical and geographical boundaries, or of the recognition of their territorial enlargement; that this is not the case with Esthonia in that Esthonia was constituted as a State without the other Powers, members of the League of Nations being called upon to decide with regard to the boundaries of her territory, or to impose upon her any conditions before recognising her sovereignty; that, moreover, Esthonia has, of her own free will, recognised her obligations in regard to Minorities.

With regard to these observations, I would point out that the Esthonian declaration of September 13, 1921, seems to me to refer to the Treaties already concluded for the protection of Minorities. In fact, this declaration refers to the Assembly's recommendation of December 15, 1920, which expressly mentions the Minorities Treaties. The Esthonian Government has agreed to apply the principles of these Treaties, and has declared its readiness to enter into negotiations with the Council concerning the extent of Esthonia's International obligations resulting from these principles.

The Esthonian Note states that the Esthonian Constitution would scarcely be placed under the guarantee of the League of Nations. I must point out that this difficulty does not arise if the proposal be accepted that a special declaration, independent of the Constitution, should be made. It is true that, according to Article I. of this declaration, the provisions contained in it are recognised as fundamental laws in Esthonia, but this does not imply that the provisions of the Constitution itself are placed under the guarantee of the League. It is only the stipulations of the declaration which will be placed under the guarantee of the League.

The Esthonian representative points out that the provisions of the declaration, although not differing greatly in principle from the corresponding provisions of the Esthonian Constitutional Law, nevertheless involve, as regards the form, a modification of the constitutional law. He adds that such an amendment in the constitutional law could not be made except by a plebiscite, and could not be effected by a mere declaration on the part of the Government.

As regards this, I venture to say that I am certain that the Council will examine with the utmost goodwill every suggestion that the Esthonian representative might desire to submit in order that the provisions of the proposed declaration may agree with the rules of the Esthonian Constitution.

Further, the Esthonian representative shows a certain anxiety in regard to Article 4 of the declaration, which provides adequate facilities for the use of their language before the Courts for Esthonian nationals whose mother tongue is not the Esthonian language. The right to use their own language before the Courts is accorded by the Esthonian Constitution to German, Russian and Swedish Minorities. It seems to me that the stipulation of Article 4 of the draft can hardly be in contradiction with that of the Constitution.

Another observation of the Esthonian representative refers to Article 6 of the draft declaration. In Esthonia, the Church being separate from the State, the latter, he states, has not the right to grant financial assistance to the religious institutions of Minorities. I would point out that the stipulations of Article 6 do not provide for financial assistance to the institutions of Minorities, except in the case where such assistance is given to the institutions of the population in general. The Esthonian representative's observations seem to me, therefore, to be based on a misunderstanding.

Finally, the Esthonian representative raises certain questions concerning the interpretation of the term "racial Minority." In the draft declaration which I submitted to the Council, I kept strictly to the expression used in all the Minorities Treaties. It will perhaps be sufficient to say that the Treaties speak of "persons" or "nationals" belonging to Minorities of race, language or religion.

The Council might perhaps invite the Esthonian representative to submit to the Council any further observations which he might desire to make in regard to the various clauses in the draft declaration.

No. 17.

(Report on Minorities in Latvia presented to the Council by M. de Gama, September 26, 1922.—Extract.)

. . . . It results from the summary I have just given of the different Notes of the representative of Latvia that he has raised a very important question of principle, namely, the acceptance by all the Members of the League of Nations of International obligations for the protection of Minorities. The representative of Latvia argues that it is only by such an arrangement, either in the form of reciprocal Treaties or in the form of an amendment to the Covenant of the League of Nations that reciprocity can be obtained in the matter of the protection of Minorities between all the Members of the League, reciprocity which he considers necessary. On this subject I must say that I scarcely think it useful to enter here on an examination of the general problem of the protection of Minorities in all the States Members of the League. The problem before us is to define, in conformity with the Declaration of the Government of Latvia of the 14th September, 1921, the extent and the details of application of its International obligations for the protection of Minorities. In the same way as other States have bound themselves by Treaties or by Declaration to the League of Nations, Latvia has engaged herself by her Declaration of the 14th September, 1921. Latvia finds herself, from this point of view, exactly in the same situation as all these other States, and the League of Nations is ready to place under its guarantee the International obligations of Latvia in regard to the protection of Minorities. The only question before us is to define these obligations and the details of their applications.

The Delegate of Latvia, in one of his Notes, has asked the League of Nations for a Declaration to the effect that the stipulations already in force in Latvia are in accord with the principles of the Treaties for the protection of Minorities. A summary of these stipulations was given in the documents submitted by the Latvian Delegation. In their opinion these stipulations correspond generally with the principles of the Minorities Treaties. It will then be all the more easy

for the Latvian Government to incorporate these stipulations in a formal Declaration to the Council, in conformity with the draft which I beg to submit to you. . . .

[The Draft Declaration which follows is identical with the Declaration signed by Lithuania which the Joint Foreign Committee recommended to the Council as a model for the Latvian Declaration (*supra*, Doc. 15, p. 38). The text of the Lithuanian Declaration will be found printed in full in the *Official Journal of the League of Nations*, Third Year, pp. 586-587. The Latvian Draft Declaration contains the following special Articles relating to the Jews which were also inserted in the Lithuanian Declaration and in the Minorities Treaty with Poland:—]

ARTICLE 7.

Educational committees appointed locally by the Jewish communities of Latvia will, subject to the general control of the State, provide for the distribution of the proportional share of public funds allocated to Jewish schools in accordance with Article 6, and for the organisation and management of these schools.

The provisions of Article 6 concerning the use of languages in schools shall apply to these schools.

ARTICLE 8.

Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their Sabbath. This provision, however, shall not exempt Jews from such obligations as shall be imposed upon all other Latvian citizens for the necessary purpose of military service, national defence or the preservation of public order.

Latvia declares her intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday.

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