1945
NEW ZEALAND

United Nations Conference on International Organization

REPORT ON THE CONFERENCE HELD AT SAN FRANCISCO 25 APRIL–26 JUNE 1945 BY THE RT. HON. PETER FRASER CHAIRMAN OF THE NEW ZEALAND DELEGATION

Presented to both Houses of the General Assembly by Leave

CONTENTS

	Page
Introduction by the Right Hon. Peter Fraser	2
Reports on the Technical Committees—	
COMMITTEE I/1—General Provisions: Preamble, Purposes, and Principles	15
COMMITTEE I/2—General Provisions: Membership, Amendments, and Secretariat	22
COMMITTEE II/1—Structure and Procedures of the General Assembly	29
COMMITTEE II/2—Political and Security Functions of the General Assembly	30
COMMITTEE II/3—Economic and Social Council: Arrangements for International Co-operation	35
COMMITTEE II/4—International Trusteeship	45
COMMITTEE III/1—Security Council: Structure and Procedures	50
COMMITTEE III/2—Security Council: Peaceful Settlement ..	55
COMMITTEE III/3—Security Council: Enforcement Arrangements	57
COMMITTEE III/4—Security Council: Regional Arrangements ..	64
COMMITTEE IV/1—Judicial Organization: International Court of Justice	66
COMMITTEE IV/2—Judicial Organization: Legal Problems ..	73
Appendices—	
I. Charter of the United Nations (including, at page 94, Statute of the International Court of Justice) ..	74
II. Interim Arrangements concluded by the Governments represented at the Conference	104
III. The Dumbarton Oaks Proposals for the Establishment of a General International Organization	106
IV. Amendments advanced by New Zealand to the Dumbarton Oaks Proposals	112
V. Conclusions on General International Organization reached at Australian-New Zealand (Wellington) Conference, November, 1944	115

UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

I HAVE the honour to present to Cabinet the report of the New Zealand delegation, of which I was the Chairman, on the proceedings and decisions of the United Nations Conference on International Organization, which was opened at San Francisco on 25 April and concluded on 26 June.

I desire at the outset, however, to refer briefly to the earlier British Commonwealth meeting held in London from 4 to 13 April. These London conversations afforded a most useful opportunity to the representatives of United Kingdom, Canada, Australia, New Zealand, South Africa, and India to examine in common the Dumbarton Oaks proposals which were to provide the basis of the International Organization Conference in San Francisco. I should like to pay a warm tribute to the able support I received in London from the New Zealand High Commissioner, Mr. W. J. Jordan, and from the New Zealand Minister in Washington, Mr. C. A. Berendsen, C.M.G., who participated with me in these talks. The purpose of the British Commonwealth discussions was not to arrive at decisions, but to secure elucidation of one another's viewpoint and to gain first-hand information on the Dumbarton Oaks proposals from the representatives of the United Kingdom Government, which had helped to formulate them. It was made clear to the public during the London talks that the meeting of British representatives in no way implied any intention or desire to create a "British Empire bloc" which would confront the other United Nations with an agreed policy and a unified vote on all issues. The subsequent trend of debate and voting at San Francisco bore out that fact, and the influence and standing of the British nations was undoubtedly enhanced thereby without impairment of the essential unity and solidarity of the British Commonwealth.

I should also like to add that the New Zealand delegation at San Francisco at no time had any illusions as to the magnitude, the complexities, and difficulties of the task that faced the San Francisco Conference. It was inevitable that the conflicting points of view among forty-six nations (eventually fifty were represented) would call for a large measure of conciliation and compromise if a satisfactory Charter were to be written. The New Zealand Government had seen certain basic weaknesses in the proposals formulated at Dumbarton Oaks and Yalta. Its delegation approached the Conference, therefore, with the intention of advocating certain fundamental amendments and, above all, with the desire to play its full part in establishing a world organization that would as far as possible embody those principles of international policy which the New Zealand Government has seen no reason to alter since it put them forward in the critical years before this war. In this spirit and with this object in view, therefore, the New Zealand delegation, in addition to pressing its own amendments, frequently lent its support to generally similar proposals made by other nations, sometimes in substitution for its own, and in other cases it either brought forward or supported proposals that were in line with, or actually emerged from, trends of opinion that became clear as the discussions progressed.

The difficulties that faced the New Zealand delegation, and indeed all delegations, were not only those of differences of opinion, but also those of a physical nature which arose out of the magnitude of our task. As will be understood, the very act of holding and managing a Conference at which the representatives of fifty nations were present was no small achievement, and a great deal of credit is due to the American Secretary of State, Mr. Stettinius, for his fair-minded and able direction of the Conference and to his officers of the State Department who found themselves carrying the main burden of the management and secretarial work. Even so, a heavy burden fell on the Conference as a whole and on each of the delegations.

The Conference was held in commodious buildings in the Civic Centre of San Francisco, and it would be fitting to express our deep sense of gratitude to the people of San Francisco and of California for their friendly hospitality.

I should like to take this opportunity of paying a tribute to the members of the delegation, and in particular to my co-delegate, the New Zealand Minister to the United States, Mr. C. A. Berendsen, whose long experience of international Conferences and clear views and understanding of the issues involved made him a most valuable colleague and worthy representative of the Dominion. I also desire to express my thanks and that of the Government to the Chief Justice, the Rt. Hon. Sir Michael Myers, whose outstanding legal experience and conspicuous ability were most favourably commented upon by those associated with him in the drafting of the Statute of the International Court of Justice. I wish to record also my appreciation of the work at the Conference of the Secretary of External Affairs, Mr. A. D. McIntosh; of Mr. J. V. Wilson and Mr. C. C. Aikman, of the External Affairs Department; of Mr. B. R. Turner, of the Legation Staff in Washington, who acted as Secretary of the New Zealand delegation; of the Public Relations Officer, Mr. Robin Miller, of the staff of the New Zealand High Commissioner's Office in London; and of the members of the office staff, Miss M. H. L. Browne and Miss M. M. Oddy, and of my Private Secretary, Miss K. G. Jordan. It was necessary for all members of the staff to work exceedingly long hours, and this they did with the utmost willingness. Members of the delegation met at frequent intervals to exchange views on various matters before the Committees and to discuss the attitude to be adopted by the New Zealand delegation.

A description of the manner in which the Conference was organized will assist towards an understanding of the final results.

The Conference began with a number of Plenary Sessions, during which the greater number of the delegations, including New Zealand, made general statements on the Dumbarton Oaks proposals. For reasons of efficiency and thoroughness of discussion, the Conference was divided into four Commissions, each responsible for the drafting of a particular section of the Charter, and the Commissions were subdivided again into twelve separate technical Committees, which appointed altogether twenty-six smaller sub-committees for specific tasks. Every delegation was entitled to be represented on each of the Commissions and on each of their technical Committees. Every delegation was represented, too, by its Chairman on the Steering Committee, which, with the Executive and Co-ordination Committees, helped to direct the work of the Conference.

As the body which considered any major policy or procedure question, the *Steering Committee* at once assumed special importance.

At the earliest stage in its proceedings the Steering Committee laid down the rules of procedure of the Conference, and it was on questions of this nature that the first tests and trials of strength occurred. At the first meeting the Chairman of the Soviet

delegation, M. Molotov, proposed that, instead of proceeding to elect a permanent Chairman of the Conference, representatives of each of the sponsoring Powers should each preside in rotation over the Conference business. This proposal threatened to produce a deadlock, and at a meeting of British Commonwealth delegates I suggested an alternative proposal to the effect that, while the representatives of the sponsoring Powers should preside in turn over the proceedings of the Plenary Sessions, there should be a permanent Chairman of the Steering Committee, which was the working body of the Conference and responsible for its management. This proposal was placed before representatives of the sponsoring Powers by Mr. Eden and ultimately accepted. Mr. Stettinius, as the Chairman of the delegation of the host Government, presided with conspicuous ability over the Steering Committee and Executive Committee.

The Steering Committee was the body which recommended to the Conference the admission of additional States. These included White Russia, Ukraine, Argentine, and Denmark.

On the question of the admission of Argentine, I endeavoured to secure postponement to enable the whole matter to be fully examined and considered, and voted accordingly both in the Steering Committee and in Plenary Session. As this motion was lost, I abstained from voting on the question of permitting Argentine to attend, and in Steering Committee stated that I did so in view of the fact that it was the unanimous wish of all the American Republics that Argentine should be admitted.

The *Executive Committee* was a small working body of the Steering Committee, to whom it made its recommendations, and assisted in other ways as the Steering Committee authorized. The Executive Committee was composed of the Chairmen of the delegations of the sponsoring Governments (namely, China, Union of Soviet Socialist Republics, United Kingdom, United States of America), and the Chairmen of the delegations of ten additional Governments (namely, Australia, Brazil, Canada, Chile, Czechoslovakia, France, Iran, Mexico, Netherlands, Yugoslavia).

The third important central body was the *Co-ordination Committee* composed of fourteen members, each representing a member of the Executive Committee. It was the responsibility of the Co-ordination Committee to prepare the final draft of the Charter after examining the drafts received from the Technical Committees, eliminating the inconsistencies between them and clarifying and improving their language.

There was also an *Advisory Committee of Jurists,* charged with the responsibility of reviewing, from the point of view of terminology, the texts prepared by the Co-ordination Committee, and eventually the whole text.

The Commissions and Technical Committees are enumerated below, together with the New Zealand representatives thereon:—

COMMISSION I—GENERAL PROVISIONS

Rt. Hon. P. Fraser
Mr. C. A. Berendsen

Committee I/1—Preamble Purposes and Principles

Delegate Mr. C. A. Berendsen
Alternate Mr. J. V. Wilson

Committee I/2—Membership, Amendments, and Secretariat

Delegate Rt. Hon. P. Fraser
Alternate Mr. J. V. Wilson

COMMISSION II—GENERAL ASSEMBLY

Rt. Hon. P. Fraser
Mr. C. A. Berendsen

Committee II/1—Structure and Procedures

Mr. A. D. McIntosh
Mr. J. V. Wilson

COMMITTEE II/2—POLITICAL AND SECURITY FUNCTIONS
Delegate Rt. Hon. P. FRASER
Alternate Mr. A. D. McINTOSH

COMMITTEE II/3—ECONOMIC AND SOCIAL CO-OPERATION
Delegate Rt. Hon. P. FRASER
Alternate Mr. B. R. TURNER

COMMITTEE II/4—TRUSTEESHIP SYSTEM
Delegate Rt. Hon. P. FRASER
Alternate Mr. A. D. McINTOSH

COMMISSION III—SECURITY COUNCIL

Rt. Hon. P. FRASER
Mr. C. A. BERENDSEN

COMMITTEE III/1—SECURITY COUNCIL: STRUCTURE AND PROCEDURES
Delegates Rt. Hon. P. FRASER; Mr. C. A. BERENDSEN
Alternate Mr. J. V. WILSON

COMMITTEE III/2—PEACEFUL SETTLEMENT
Mr. A. D. McINTOSH
Mr. J. V. WILSON
Mr. C. C. AIKMAN

COMMITTEE III/3—ENFORCEMENT ARRANGEMENTS
Delegate Mr. C. A. BERENDSEN
Alternate Mr. A. D. McINTOSH

COMMITTEE III/4—REGIONAL ARRANGEMENTS
Delegate Mr. C. A. BERENDSEN
Alternate Mr. B. R. TURNER

COMMISSION IV—JUDICIAL ORGANIZATION

Rt. Hon. P. FRASER
Rt. Hon. Sir MICHAEL MYERS

COMMITTEE IV/1—INTERNATIONAL COURT OF JUSTICE
Rt. Hon. Sir MICHAEL MYERS
Alternate Mr. C. C. AIKMAN

COMMITTEE IV/2—LEGAL PROBLEMS
Rt. Hon. Sir MICHAEL MYERS
Alternate Mr. C. C. AIKMAN

During the greater part of the Conference as many as ten Committees were held each day, and for the several delegations which, like our own, were modest in size it was no simple matter to take a continuous part in the deliberations of the Committees. Nevertheless, the energy and enthusiasm of those who were associated with me as the representatives of the New Zealand Government was such that we were able to play a full part in all discussions and decisions of moment.

The New Zealand delegation was represented at every Committee meeting, and it was possible for me and for Mr. Berendsen, as the two delegates, to attend whichever meeting for the time being was the most important.

The results of the long and arduous weeks spent in Committee work were embodied in the reports of the Rapporteur of each technical Committee to the relevant Commissions. The reports gave such information and explanations concerning the course of the Committee's discussions as were required.

The discussions in the *Commissions* were of unequal length, but rarely exceeded two sessions for the report of any one Committee. In one or two cases only were amendments to the reports brought forward by the Committees moved in Commission. On the other hand, delegations, of which New Zealand was one, took the opportunity of the sessions of the Commissions to make public declarations explaining their attitude.

When the Commissions, in their turn, brought forward their reports to the Plenary Session of the Conference, no discussions ensued. On one report only was a statement made by a delegation before the Plenary Session.

I should like to refer in passing to the fullness of discussion which generally marked the whole of the Conference proceedings. Though the time spent in San Francisco was long, every encouragement was given by Mr. Stettinius, on behalf of the sponsoring Powers, to have matters thrashed out fully and thoroughly, with the result that every delegation was able to come away from the Conference feeling that an opportunity had been given to express its country's viewpoint and to have it considered.

The reports of the four Commissions were all adopted at the Plenary Session on the evening of Monday, 25 June, following which the Conference unanimously adopted the Charter of the United Nations, including the Statute of the International Court of Justice, the Chairmen of the fifty delegations represented rising in their seats to signify their assent.

On 26 June the Charter was signed by the delegations represented at the Conference.

The President of the United States, the Honourable Harry S. Truman, honoured with his presence the closing session of the Conference, which was held on the afternoon of Tuesday, 26 June, and delivered an address, with which the proceedings of the Conference were brought to a close.

The President's message was in every way worthy of the great occasion on which it was pronounced. His simple statement of great principle was in terms which all peoples could appreciate and understand. No one who heard him will forget his appeal to all nations to honour their pledge to build upon the Charter a new epoch of peace and security. Mr. Truman, like every delegate who spoke during the Conference, paid tribute to the memory of the world leader who, more than any other man, was founder and architect of the United Nations organization—Franklin D. Roosevelt.

The conclusion of the Conference was followed on 27 June by the first meeting of the Preparatory Commission, which was set up to make such preliminary arrangements as might be necessary pending the coming into force of the Charter.

Before reviewing the work and achievements of the Conference and the main points raised by the New Zealand delegation it would be convenient at the outset to give some brief account of the leading features of the Charter which was finally adopted.

Very broadly, the plan is as follows:—

At the centre of the security system is the *Security Council* (Chapter V), composed of five permanent members—China, France, U.S.S.R., United Kingdom, and United States of America—and six other States elected for two years by the General Assembly. The Council is "primarily responsible for the maintenance of international peace and security," and the members of the United Nations agree to accept and carry out its decisions in accordance with the Charter. The obligation of members to apply at the call of the Security Council measures not involving the use of armed force is unqualified; the obligation to apply measures involving the use of armed force is subject to certain conditions. There are two limitations on the exercise of these extensive powers; (1) the moral limitations that is offered by the "purposes and principles" set forth in Chapter I, to which the action of the Security Council must conform; and (2) the political limitation arising from the circumstance that the agreement of all the permanent members is required for any important decision of the Security Council to take effect. The Security Council is assisted by a *Military Staff Committee* composed of representatives of the permanent members of the Security Council (Chapter VII).

The application of the powers of enforcement possessed by the Security Council is naturally reserved for extreme cases, when a threat to the peace or breach of the peace has actually arisen. The Security Council also has wide powers to deal with disputes at an earlier stage, when they are less grave and when there is still good hope of peaceful settlement (Chapter VI). The Security Council is not required to attempt to settle every dispute directly. On the contrary, it must in many cases encourage the parties to settle outside the Council, by peaceful procedures of their own choice. These may include the use of the regional arrangements to which considerable importance is attached in the Charter, and which may also be employed, under the authority of the Security Council and in stated conditions, for enforcement action (Chapter VII).

The *General Assembly*, composed of representatives of all the United Nations, is free to discuss and, with one important limitation, to make recommendations upon any questions relating to the maintenance of international peace and security; but it does not possess an authority equal to that of the Security Council in this field. So far as the other activities of the United Nations are concerned, the General Assembly is the supreme organ, and has freedom of discussion and recommendation on any questions within the scope of the Charter. It is also the budgetary authority of the United Nations, and apportions the expenses between them. The General Assembly adopts all important decisions by a two-thirds majority. This departure from the rule of unanimity is a major change from the League of Nations Covenant.

Subordinate to the General Assembly, but included in the list of principal organs of the United Nations, are the *Economic and Social Council* (Chapter X) and the *Trusteeship Council* (Chapter XIII). The former is entrusted with the immediate responsibility for the discharge by the Organization of its obligation to promote higher standards of living; full employment; international cultural and educational co-operation; and "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." The Trusteeship Council is to assist the General Assembly in the exercise of its functions under the international trusteeship system set up by the Charter, and to supervise the administration of the Mandates when they are eventually transferred.

The two other principal organs of the United Nations are the *International Court of Justice* (Chapter XIV), the Statute of which forms an integral part of the Charter, and the *Secretariat* (Chapter XV).

While the Charter does not measure up to our most earnest hopes, it does exceed our expectations in certain respects and, moreover, it represents a marked improvement over the Dumbarton Oaks proposals, which formed the basis of the discussions in San Francisco. It has more life, more breadth and depth, than that somewhat stiff and formal document. It is more flexible, and it is in some respects more democratic. It bears the imprint of many more minds and points of view than did the original.

These improvements reflect the degree of willingness of all the nations, great and small, to travel at least a part of the distance towards the reconciliation of divergent points of view. There were few, if any, delegations which did not find themselves called upon to make some considerable concessions in the interests of the successful conclusion of the Conference. Without that spirit of restraint and co-operation, the Charter would not have been written at all.

The New Zealand delegation, in my opinion, is entitled to look back with a measure of satisfaction on the part it played in the Conference. At the same time, however, I would not presume to claim for it any disproportionate share of the credit for the improvements which were made on the original proposals. Our individual

efforts to gain many of those improvements would have been of no avail without the similar efforts of many other delegations. We were gratified to discover among them many who shared our points of view and whose sincere beliefs coincided to a large degree with our own.

Throughout the Conference, as before it, we maintained the closest relationship with the Australian delegation. The examination of the Dumbarton Oaks plan made by both our Governments at Wellington in October, 1944, and the common viewpoint on world organization problems then reached remained the basis of the policies of the Australian and New Zealand delegations at San Francisco. I am very glad indeed to have this opportunity of paying tribute to the outstanding work of the able Australian delegation, and in particular to the valuable services of Mr. Forde, the Deputy Prime Minister, and Dr. H. V. Evatt, the Commonwealth Minister of External Affairs.

Among the other smaller and middle Powers, I would mention particularly the delegations of Belgium, the Netherlands, Mexico, Greece, Egypt, Brazil, Chile, and Cuba. Our policies did not coincide in every detail, but in many important respects we shared a mutual understanding, sympathy, and enthusiasm.

The part which the New Zealand delegation played in the Conference is described in detail in the later sections of this report dealing with the work of the various technical Committees. I propose in this general section to discuss only some of the more important points.

The *Preamble* of the Charter was the subject of much discussion. The New Zealand delegation had welcomed the draft put forward by Field Marshal Smuts during the London conversations in support of his proposal that the Charter should be introduced by a Preamble setting forth in language which should appeal to the heart as well as the mind of men the purposes which the United Nations were setting themselves to achieve. Unhappily, the somewhat involved draft later tabled at the San Francisco Conference failed to reproduce, in the opinion of the New Zealand delegation, the simplicity, force, and distinction of the language which they had heard from the lips of the Field Marshal during the London conversations. When this draft, modified only in detail, appeared before the full Commission, I proposed that some well-known writer of good English—such as Mr. Archibald MacLeish, who was attending the Conference—should be asked to redraft and re-invigorate the Preamble. However, the text as formally approved remained very much as it had been, and the chance that the Charter should be prefaced by a statement of aims to which men and women everywhere might respond was lost.

The *Purposes* of the United Nations and the *Principles* by which the organization will be guided in its efforts to accomplish these purposes, as now set out in the Charter, show an improvement on the original Dumbarton Oaks proposals, largely as a result of the insistence of delegates of several smaller nations. These in particular stressed that the purposes and principles of the organization should be set forth with the utmost clarity and positiveness in order that they might be understood by all to be the international rules of conduct to which member States should be bound to conform. It was the view of the New Zealand Government that the Dumbarton Oaks proposals were defective in this respect, and it remains our opinion that the defects have not been fully removed, though they have been remedied to an appreciable extent.

In an endeavour to effect improvements, and in accordance with the line of argument which I had used in the Plenary Session, the New Zealand delegation vigorously advanced, in the first instance, the suggestion that the statement of *Purposes and Principles* should be so extended as to include, as a positive aim of the Organization,

the preservation against external aggression of the territorial integrity and political independence of every member of the Organization. The New Zealand amendment on this point was defeated. It is true that there was added to the Chapter of Purposes and Principles an undertaking to *refrain* from any act of aggression against the territorial integrity and political independence of any member. This negative provision is, however, in our view, an inadequate substitute for the New Zealand amendment.

The Charter lacks an even more important provision which our delegation sought to have incorporated in the form of an undertaking on the part of all members "collectively to resist every act of aggression against any member." This proposal suffered varied fortunes at the hands of the Conference. It was at first rejected in sub-committee by a majority that included the votes of the five Great Powers, but was resurrected in the full Committee and put to the vote after Mr. Berendsen had insisted forcefully that a clear pledge against aggression was the minimum undertaking to which the smaller nations were entitled, and that it was in fact the core and kernel of any system of collective security. In spite of the fact that no fewer than twenty-five other nations supported New Zealand, the Great Powers remained opposed to it, and, with the assistance of thirteen other votes, they were able to prevent it from gaining the required two-thirds majority.

The New Zealand delegation attached such importance to this proposal, and to the substantial majority of votes it had gained despite the restricted time made available for its discussion, that I felt it my duty to draw the attention of the relevant Commission to the result of the voting, and to the grave defect that remained in the principles of the Charter. Without proposing that the question should be reopened, I made a declaration in the name of the New Zealand delegation explaining that the point of our proposal was that when the Security Council had decided that an act of aggression against one of the members of the organization had taken place, there should immediately result a clear and unmistakable duty on every member of the organization, great and small, to resist and defeat that aggression by the means laid down by the Security Council.

The New Zealand delegation placed on record its earnest hope that the Security Council, in its work of resisting aggression and establishing and maintaining international peace and justice, with the support of all the United Nations and with increasing experience and confidence, would find it possible and advantageous to accept the New Zealand proposal in practice as a guiding and basic principle in what we devoutly trust will be its realistic approach to the problems with which it will have to deal.

The New Zealand delegation endeavoured during the Conference, through its own amendments and those put forward by other Powers, to give its support to any proposal for widening the powers of the *General Assembly.* We felt that the Dumbarton Oaks proposals conferred excessive authority on the Great Powers and, while we realized that no security programme could be fulfilled unless it commanded the adherence of the Great Powers, we felt, and still feel, that the smaller nations could take a much greater part in framing the decisions of the World Organization than has been envisaged in the Charter.

The New Zealand delegation protested vigorously against a situation under which the Great Powers retained for themselves the right to say in every important case whether the Organization should or should not act, and whether they themselves should be bound or not, and under which the Great Powers were at the same time vested with the right to deny to the smaller Powers not only a vote, but a voice in these matters.

For this reason New Zealand put forward an amendment designed to give the Assembly powers sufficiently wide to permit it to consider any matter within the sphere of international relations. We also proposed that when sanctions were called for by the Security Council endorsement by the Assembly should normally be required, and that all members should thereafter be bound by the Assembly's decision. Our attitude on the questions relating to the Assembly was shared by the majority of the smaller Powers, and it is gratifying to be able to report that considerable modifications were obtained in the original Dumbarton Oaks text.

Another major issue in which New Zealand was actively concerned was the rule of unanimity, or the veto of the Great Powers on the *Security Council.* A statement of the issues involved and the part played by New Zealand in Committee discussions is contained in the report on Commission III, Committee 1, elsewhere in this document.

At the Plenary Session on 3 May I dealt with the viewpoint of the New Zealand Government on this question, and stressed what we considered were the grave defects of a security system as laid down by the Great Powers in the Dumbarton Oaks text and at Yalta. As indicated in my remarks on that occasion, I felt it my duty to oppose the adoption of the undemocratic veto, and during the Committee discussions I took every opportunity to request explanations and modifications. In particular we were concerned about the veto which could be exercised by one of the permanent Powers in the Security Council in respect to aggression by other nations. It could be argued from a literal reading of the Yalta text, though, personally, I was unwilling to admit the possibility of such a rigid interpretation, that a Great Power could, if it so desired, use the veto to prevent any discussion on the aggressive action of a smaller nation against another. This particular feature appeared to be capable of reducing the work of the Security Council to futility.

At the outset of the Conference I stated that the veto as a whole should not and could not survive as a permanent arrangement, and that the New Zealand delegation were firmly of opinion that if its adoption in some form was inevitable then its operation should be restricted exclusively to enforcement action and not to peaceful settlement. When the Australian delegation introduced an amendment on these lines the New Zealand delegation gave it their fullest support. Especially did I protest against the perpetuation of the veto in the procedure for amendments whereby alterations to the Charter agreed upon by an overwhelming majority of the United Nations could be blocked by the dissent of any one of the permanent members of the Security Council.

It became clear very soon during the Committee discussions that the majority of the Powers present were opposed to the veto. It was made equally obvious that without the veto the sponsoring Powers would not agree to the adoption of the Charter. This situation, in the last analysis, presented the opponents of the veto with the alternative of voting against it or of abstaining.

In the final meeting of Commission III, I took the opportunity to place on record in the following terms the reasons why New Zealand adopted this latter course:—

> "The sponsoring Powers, particularly the three Powers responsible for the initiation of the Dumbarton Oaks Conference and the Yalta Conference, felt and indicated their decision that the rule of unanimity among the five permanent members of the Security Council was imperative. They emphasized that it could not be altered or deviated from in matters of substance that might involve serious consequences, and that the veto was a pre-condition of the formation of the new world organization. That was an attitude expressed very clearly, much more clearly than the explanation of the actual detailed effect and working of the veto. There was, on the other hand, at the beginning of the Conference the obvious and apparent inability of the majority of

the other countries represented to accept that point of view as final. If the question of the veto had been voted on its intrinsic merits, as an authority placed in the hands of one Power which in certain circumstances could be used to defy the conscience of the world; and, further, if this question had been put without the warning that its non-acceptance would have disastrous consequences to the Organization, then, without any question, the veto would have been defeated overwhelmingly. As it was, it came very near defeat. If the fifteen abstentions on one of the principal divisions had not been made, then the rule of unanimity among the main Powers would not have been carried. If in Committee I/2 one-third of a vote less had been cast, the rule of unanimity would not have been carried to apply to the amendment of the Charter. Therefore, in the case of most of the opposing Powers, those who carried their opposition right up to the point of casting the final vote in Committee, it was a question—a most serious and all important question, to decide what to do—to defeat the veto and lose the Charter, or to accept the Charter with the veto."

No section of the Dumbarton Oaks proposals underwent more extensive changes for the better than that which dealt with international co-operation in economic and social matters. By elevating the proposed *Economic and Social Council* to the status of one of the "principal organs" of the United Nations, by broadening its scope of activity, and by setting in front of every nation certain positive objectives, the Charter recognizes the very great bearing that economic and social conditions have on the peace, security, and progress of the world. For the New Zealand delegation it was most gratifying to observe the extensive, and often unanimous, agreement expressed by the representatives of the other nations with many of the principles to which the New Zealand Government has always attached great importance. The result of that heartening measure of agreement is that the Charter provides for a serious and concerted study of every factor leading to the unrest, in economic and social matters, that the past quarter of a century has proved to us to be one of the root causes of misdirected ambition, selfishness, and war itself. By ratifying the Charter, nations will for the first time in history accept an obligation to work towards the objectives of high standards of living and full employment, and pledge themselves jointly and severally to take all necessary steps to attain them. If these obligations are loyally and seriously carried out, it may well be that the work of the Economic and Social Council will have primary importance in the maintenance of international peace and security.

The honour fell to me of serving as Chairman of the Committee that dealt with *International Trusteeship,* an issue with which the New Zealand Government and I personally have always been greatly concerned. In this case again there was a heartening measure of agreement, especially among those nations directly concerned with the welfare of Native peoples and administration of colonies, mandates, and other dependencies, on principles long regarded as essential by the New Zealand Government and set forth eighteen months ago in the Agreement signed at Canberra by New Zealand and Australia.

The Dumbarton Oaks proposals contained no reference to trusteeship, although it was understood that the subject should be discussed at the San Francisco Conference. This meant that the Committee had no basis of discussion and agreement provided for it, and our first task was to evolve such a basic set of proposals from the individual and divergent views put forward by many of the nations represented. A remarkable degree of success was achieved. We were able to embody in the Charter universal and far-reaching obligations on all nations concerned to give effect to the fundamental principle that the interests and well-being of dependent peoples themselves are paramount; we agreed on a system of international trusteeship that applies to certain classes of territories and that

marks a considerable improvement over the old mandates system; and we set out the details of the machinery, in the form of a *Trusteeship Council,* by which the system will be operated.

It must be appreciated, however, that, although the plan has been drawn up, the actual settlement of the many problems involved still remains a matter for future agreement. The effective application of the principle agreed upon at San Francisco, particularly in relation to the voluntary undertakings by the colonial Powers, will depend on their wholehearted acceptance of both the spirit and the machinery of trusteeship as laid down in the Charter. There are, moreover, the practical questions relating to the transfer of mandates to the new Organization which urgently require to be faced. These involve the consideration and consent of the Allied and Associated Powers (without Italy and Japan) who met at Versailles in 1919. We have yet to know what is to be the authority to transfer the mandate.

So far as New Zealand is concerned, I stated on 20 June, at the conclusion of the Commission which approved the adoption of the trusteeship clauses of the Charter, " that we have accepted a mandate as a sacred trust, not as part of our sovereign territory. A mandate does not belong to my country or any other country. It is held in trust for the world. The work immediately ahead is how those mandates that were previously supervised by the Mandates Commission of the League of Nations can now be supervised by the Trusteeship Council with every mandatory authority pledging itself in the first instance, as the test of sincerity demands, whatever may happen to the territory afterwards, to acknowledge the authority and the supervision of this Trusteeship Council."

Other matters of importance in the Charter to which the New Zealand delegation gave its earnest attention included the *International Court of Justice,* which, in spite of our efforts to secure the principle of compulsory jurisdiction, will be largely a continuation of the former Permanent Court. On the question of the *Secretariat* of the new Organization, also, we made strong and successful efforts to ensure the exclusively international character of the Secretary-General and his staff.

In reviewing the work and the achievements of the Conference in general terms I would like, first of all, to express wholehearted satisfaction that, despite its defects, the *Charter* has been finally drafted and agreed to by the representatives of fifty nations. These representatives came to San Francisco from every corner of the world; they represented almost every race, every creed, every shade of political thought; they met at a time when the world was still disrupted by war, and when many of their countries were suffering from its ravages and its devastation; they found common ground in their single-mindedness of purpose to save the world from another war, and they set up an organization on which men and women everywhere may seriously and earnestly, although not blindly, place their hope and their faith that that purpose will some day be fulfilled.

The fruits of their labours are contained in this Charter. It is presented before all the United Nations for approval and ratification. In seeking the approval of the Charter by the New Zealand Parliament I make no profession that it is perfect. In fact, I consider that it has great defects, but the alternative was no agreement and no hope for the future of the world, no restraint on aggression. This Charter is at least a beginning, and, with all its imperfections, it marks the first step that with the help of experiment and experience in the years ahead can lead us to reach the goal of real and lasting international peace and security.

In recommending that New Zealand should ratify the Charter, I feel it is my duty to draw special attention to the solemn obligations which every State assumes by such ratification. A full understanding of the nature of these obligations can, of course, be reached only by the study of the whole text of the Charter. Some of them should

not, from the point of view of New Zealand, present any great difficulty, such as the general undertakings of international good conduct (Article 2); the duty to submit any international dispute in which we may be engaged to procedures of peaceful settlement (Articles 33 and 37); the obligation to comply with the decision of the International Court of Justice in any case to which New Zealand may be a party (Article 94).

The specific and solemn pledges to which special attention should be drawn are the following:—

1. *Obligation concerning the Use of Armed Forces*

Under Article 43 "all members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security." This clause means that we shall be obliged to enter into an agreement concerning the provision of armed forces. The size of these forces will be a matter of negotiation, but it will be wise to assume that each member will be asked to supply a substantial amount since the sum total of the forces and facilities will furnish the means on which the United Nations are to rely for the repression of threats to the peace. Once the agreement is made, the forces stipulated must be supplied on the "call" of the Security Council—that is, whenever the Security Council, of which New Zealand may not often be a member, considers that the occasion for their use has arisen.

2. *Obligation concerning Air Force Contingents*

Of the forces to be "made available" under the agreement referred to above some are to be "immediately available." It is laid down in Article 45 that "in order to enable the United Nations to take urgent military measures, members shall hold immediately available national air force contingents for combined international enforcement action." It is further stipulated that "the strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee."

3. *Obligation to apply Measures not involving the Use of Armed Force*

The Security Council may, under Article 41, "decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the United Nations to apply such measures." The obligation to respond to this call of the Security Council is absolute, and is not subject to any further agreement. The measures "may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations."

4. *Obligation concerning Economic and Social Co-operation*

All the United Nations pledge themselves to take "joint and separate action in co-operation with the Organization" to promote "higher standards of living, full employment," and various other economic and social objectives (Articles 55 and 56).

5. *Obligation regarding Trusteeship*

As the holder of a mandate from the League of Nations, New Zealand will be expected to conclude an agreement placing the mandated territory under the trusteeship system established by the

Charter, the terms of the agreement to be approved by the General Assembly or the Security Council. The effects of this obligation are not materially different from those incurred under the mandate, except that the New Zealand Government will be required to designate "one specially qualified person" to represent it on the Trusteeship Council (Articles 79 and 86).

6. *Obligation regarding Expenses*

By ratifying the Charter New Zealand will incur the obligation of bearing its share of the expenses of the United Nations Organization as apportioned by the General Assembly. The decision of the General Assembly in this, as in other important matters, will be taken by a two-thirds majority, and will not, as in the case of the League budget, require a unanimous vote (Article 17).

I desire, in conclusion, to express my earnest hope that the ratification of this Charter, and the setting-up of the Organization whose procedure it establishes, will mark the beginning of a new epoch in the affairs of men and women and of nations. With all its imperfections, it constitutes the rallying-point of those who strive and hope for the peace of mankind. It will by no means automatically open the door to peace and progress; it will by no means resolve in advance all the problems that lie in the way of nations and of the world. It can do no more than set up the rules and procedures by which those problems may be approached, and its success depends on the sincerity and the moral determination of all those peoples who took part in the San Francisco Conference to adhere to their pledged word and to observe loyally and faithfully the principles of international conduct that the Charter sets forth.

Not security, itself, but the way to security, lies in this Charter. It is for us to take it, in full consciousness of the difficulties, the hazards, and the very great responsibilities that lie along the way. The Charter offers to us an opportunity, which may be our last, to work in unison with all other peace-loving peoples of the world towards the realization of the hope and the longing that find a common meeting-place in the hearts of all of us to establish in the world of our own time, and of the time of our children and of children unborn, a peace that will be real, lasting, and worthy of the dignity of mankind.

P. Fraser,
Chairman of the N.Z. Delegation.

REPORTS ON THE TECHNICAL COMMITTEES

COMMISSION I COMMITTEE 1

GENERAL PROVISIONS: PREAMBLE, PURPOSES, AND PRINCIPLES

NEW ZEALAND REPRESENTATIVES

Delegate MR. C. A. BERENDSEN

Alternate MR. J. V. WILSON

Terms of Reference

THE terms of reference of the Committee were "to prepare and recommend to Commission I draft provisions for the Charter of the United Nations relating to matters dealt with in Chapters I and II of the Dumbarton Oaks proposals, and to the comments and suggestions relevant thereto submitted by the Governments participating in the Conference."

Title

THE TITLE used in the Dumbarton Oaks proposals, and in the general discussion on the subject throughout the world, was "United Nations," and much discussion arose at the Conference on the question whether this really was in fact a satisfactory title. A considerable number of alterations were proposed: Association of United Nations, Union of Nations, International Juridicial Association, Juridical Community of States, Permanent Union of Nations, Association of Nations, and Associated Nations were among the various titles suggested and debated. Two objections were made to the term "United Nations"—firstly, that it already possessed a special significance in international documents, and in common use, as the term used to describe those nations which were banded together in arms in the fight against Germany and (for the most part) also against Japan, and that as the new organization was intended in time to cover a considerably wider field, including neutrals and, perhaps, ultimately, ex-enemy Powers, there was some confusion of thought in using the same title for two separate bodies. A practical difficulty also was the clumsiness of the phrase and its difficulty of translation into tongues other than English. Its plural connotation would tend to destroy the essential unity of the body that it was proposed to establish, and there would be confusion of thought and of language involved in the use of both singular and plural verbs when referring to the Organization. A proposal to avoid this difficulty by using the phrase "Association of United Nations" met with considerable support, despite the objection that the word "Association" had acquired a very wide meaning by reason of its use in commerce and other fields—for example, to signify such organizations as insurance companies and bodies of employers and workers—while a similar criticism was made of the term "United Nations" itself, that the word "United" had become associated in the public mind with such organizations as United Press, United Fruit, United Air, &c. It was pointed out, however, that the term "United States," which had suffered no loss of dignity, was open to the same objection, and, in addition, that, although it possessed a plural signification, no serious difficulty had been experienced.

The Committee's decision to adopt the term "United Nations" was finally made on two considerations—firstly, because it was believed to be the title suggested by President Roosevelt, and,

secondly, because the Organization was already known throughout the world by that title and no good object could be served in altering it. The first of these considerations was the predominant one, and the motion to adopt the term "United Nations" was finally carried by the Committee unanimously, all standing in homage to President Roosevelt.

Preamble

It could not be suggested that the drafting of the Dumbarton Oaks proposals was characterized by that dignity and solemnity of language worthy of the high and noble enterprise it was intended to establish, and during the preliminary British Commonwealth discussions at London it was strongly felt that some attempt should be made in a Preamble to indicate in appropriate words the nobility of intention of its founders. Field Marshal Smuts, who had been responsible for part of the drafting of the Covenant of the League of Nations, undertook to prepare a draft Preamble, and did so. This was subjected to considerable alteration in London, which, if it added to the scope and content of the draft, did not, it was commonly felt, conduce to the main object of the Preamble, dignity of thought and language, and directness of appeal. This draft as finally adopted in London, was presented to the Conference in San Francisco by Field Marshal Smuts, and at one of the first meetings of the Committee was unanimously adopted in principle. It was then referred to a sub-committee, and was finally returned for the Committee's approval in language which, though again considerably changed, was nevertheless recognized by the South African representative as sufficiently like the Field Marshal's draft to enable him to acknowledge it as such.

One striking alteration was made—namely, the elimination of the phrase "The high contracting parties," which usually serves as the opening of an international treaty, and the substitution of the phrase "We the peoples of the United Nations." This alteration was adopted on the example of the Constitution of the United States in order to emphasize the point that the Organization is not solely the creation of Governments, but is, in fact, the reflection of the wishes and the embodiment of the determination of all peoples.

It would seem proper to doubt whether any delegate on the Committee was really satisfied with the Preamble as finally drafted, and, because of such doubts, there were a number of abstentions from the final unanimous vote. In view of the difficulty of harmonizing differing views in a committee of fifty persons, it was felt to be impossible to approach nearer to a perfect draft, but it was the general feeling of the Committee that in the final shaping of the document some improvement might still be made.

Purposes

Throughout the discussions in the Committee and its sub-committees doubts were apparent as to whether the title of Chapter I of the Dumbarton Oaks proposals, "Purposes," and the title of the succeeding Chapter, "Principles," sufficiently indicated or distinguished the object of the two Chapters, but in the event the titles were retained by the Committee, "Purposes" being interpreted to include the broad aims of the Organization, and "Principles" the general means by which these aims were to be achieved. The two Chapters were subsequently fused by the Co-ordination Committee and appear in the Charter as "Chapter I, Purposes and Principles." In view of the very large number and complexity of amendments that had been proposed, both to Chapter I and Chapter II, their consideration was referred to a sub-committee consisting of the Chairman (Ukraine), the Rapporteur (Syria), one member from each of the delegations of the four sponsoring Governments, and delegates from Belgium, Chile, France,

New Zealand, Panama, and the Union of South Africa. This sub-committee, on which New Zealand was represented by Mr. J. V. Wilson, held thirteen meetings, and as a result of very heavy labour and lengthy discussion it succeeded in bringing the multifarious amendments into manageable proportions for the final—unfortunately, rather hurried and cursory—consideration of the Committee. On the whole, Chapter I as proposed at Dumbarton Oaks was not materially altered, though some important additions were made, importing the principles of justice, of international law, of the equal rights and self-determination of peoples, and of respect for human rights and fundamental freedoms without distinction as to race, language, or sex or religion.

One amendment to this Chapter was proposed by the New Zealand delegation—namely, to specify as one of the intentions "to preserve as against external aggression the territorial integrity and political independence of every member of the Organization." The New Zealand amendment found a considerable measure of support in the sub-committee, but ultimately was dropped in favour of an Australian amendment which called upon members not to *preserve* the territorial integrity and political independence of every member, but merely to *refrain* from the threat or use of force against these rights. The New Zealand amendment, however, was intended primarily to introduce (in the Chapter relating to Purposes) another New Zealand amendment (in the Chapter relating to Principles), with reference to collective resistance to aggression, and this latter amendment, as will be seen below, was pressed with a considerable degree of success.

Principles

Little alteration was made to the Chapter on Principles, despite the very large number of amendments suggested. A great number of these covered largely the same ground. Some—such as the principle of respect for treaties—were included in the Preamble, others were telescoped into other adjustments in the Dumbarton Oaks text already referred to, while a considerable number disappeared altogether. As a result of vigorous chairmanship and a very firm limitation of discussion the Chapter was passed by the Committee in a few hours without alteration of the proposals made by the sub-committee.

Three amendments were proposed by the New Zealand delegation:—

(1) The first proposed a new paragraph after paragraph 1, as follows:—

> "1A. All members of the Organization solemnly reaffirm and pledge themselves to the principles of the Atlantic Charter of 14 August, 1941, and the United Nations Declaration of 1 January, 1942."

This proposal was made in one form or another by many delegations, and was opposed by the Great Powers as unnecessary on the main ground that the Charter should stand alone as a complete whole in itself without reference to other documents. A test of the feeling of the Committee was taken very late one night, and the proposal was rejected on a roll call vote by 21–9, New Zealand voting with the minority.

(2) The New Zealand delegation proposed a new paragraph after paragraph 2:—

> "2A. All members of the Organization undertake to preserve, protect, and promote human rights and fundamental freedoms, and in particular the rights of freedom from want, freedom from fear, freedom of speech, and freedom of worship."

The amendment, as such, was not accepted, but a reflection of the intention of the proposal in relation to human rights and fundamental freedoms—which was also made by many other delegations—is to be found both in the Preamble and in Chapter I as finally approved.

(3) The New Zealand delegation proposed a new paragraph after paragraph 4, as follows:—

"4A. All members of the Organization undertake collectively to resist every act of aggression against any member."

This proposal was opposed throughout by the Great Powers and by those other delegations whose policy it was invariably to support the Great Powers. As a result, in the sub-committee, where the strength of the Great Powers was predominantly great, the proposal was defeated without difficulty. Mr. Wilson, on behalf of New Zealand, reserved all rights to raise the matter again in the Committee itself, and in the sub-committee's report to the Committee the following comments were made by the Rapporteur:—

"The New Zealand amendment numbered 4A, page 32 of the English text reads:

'All members of the Organization undertake collectively to resist every act of aggression against any member.'

Such a motion is to be found in many other amendments. The New Zealand amendment was rejected by a majority not attaining two-thirds.

The main reasons for the bare majority rejecting this amendment were two:

(1) The keynote for collectivity is found in the opening words of this Chapter. The Organization and its members should act in accordance with these principles.

(2) The amendment limits itself to the collective resistance of every act of *aggression,* aggression not being defined.

The rejection or acceptance of this amendment rests with the Committee.

The New Zealand delegate, as well as another delegate, reserved explicitly their right to speak on that amendment before the Committee."

This proposal was regarded by the New Zealand delegation as covering one of the most serious inadequacies of the Dumbarton Oaks proposals, and its discussion in the Committee resolved itself into a major test of strength. The New Zealand delegate, in stating New Zealand's case, made it plain at the outset that though the New Zealand amendment had been rejected by the sub-committee he was now asking the Committee to reverse this decision. He suggested that the first objection as set out in the Rapporteur's report—namely, that the keynote of collectivity was to be found in the opening words of the same Chapter—could afford no serious reason for the rejection of the New Zealand proposal. On the second objection that aggression had not been defined, it was pointed out that New Zealand had no objection to an attempt to define "aggression"; that many such definitions had been offered from time to time; that others had been produced at San Francisco; and that while there was an admitted difficulty in covering what might be referred to as the fringes of aggression, there could certainly be no difficulty in defining a very great proportion of the area of the concept intended to be covered, leaving the remainder for decision by the Security Council. In any case, it seemed most inappropriate that the sub-committee should raise objection to this word as indefinable, as they themselves had used it in their own draft of Chapter I; the authors of Dumbarton Oaks proposals were in a similar position for the term was used more than once in these proposals; nor could any of the parties to the Act of Chapultepec assert that aggression could not be defined, because they had in fact defined it in that agreement. It could quite

logically be asserted that none of the signatories to the Act of Chapultepec could with propriety oppose the whole proposal, since it was in the terms included in that Pact. But, in any case, the New Zealand delegation were not suggesting a definition of aggression. That matter had already been discussed and rejected in another Committee, and the New Zealand delegation, for their part, were prepared to leave to the Security Council—on which each of the five permanent members had a veto—to decide for themselves when the circumstances were such as to amount to aggression. The New Zealand delegation merely asked in their proposed amendment that *once aggression had been found by the Security Council*, involving, of course, an agreement by the five Great Powers that aggression had taken place, then *all* members of the Organization, great and small, should be legally and morally bound to resist and defeat the attack, by force if necessary.

The New Zealand delegate called attention to the form of organization which would result from the deliberations of the Conference—an Organization under which the five Great Powers reserved to themselves in all cases of importance the sole right of deciding when they were to be bound—indeed, whether the Organization could operate at all—while the small Powers were asked to bind themselves for all time to obey the instructions of the Security Council. The Organization would, in fact be founded on a precarious basis—the continued and continual *ad hoc* and unanimous agreement of all the five Great Powers. In the long run, the decision as to whether the Organization would operate when the test comes must rest with the conscience, the courage, and the determination of the peoples of the world. The man in the street will most certainly ask himself, having regard to the privileged position of the Great Powers, what guarantee of safety the small Powers are to get in return for the heavy commitments they are to undertake. The very least they are entitled to appeared to be a pledge that once it has been decided by the Security Council that aggression has taken place, then a legal and a moral duty and obligation *on all members* immediately arises for all members to put down that aggression.

In concluding his argument the New Zealand delegate reminded the members of the Committee that they had been told that this was too great a duty to lay upon the Great Powers. The New Zealand delegation, on the other hand, considered that nothing less could possibly be adequate. They had also been told that this was implicit in the Dumbarton Oaks draft. If that was the case, then it could reasonably be asked why should it not be made explicit. New Zealand was asking for nothing more than she was prepared to give, and had proved she was prepared to give. The graves of thousands upon thousands of New-Zealanders throughout the world were undying evidence that New Zealand did not restrict her advocacy of the principles of peace, order, and justice to mere words. This proposal appeared to the New Zealand delegation to go to the very core and kernel of any system of collective security. If no such system of mutual insurance was included in the Charter the organization being set up in San Francisco might, when tested, prove to be a container without content. The cause of the failure of the last great and noble experiment, the League of Nations, was just on this point, that in essence the League failed because its members were not prepared mutually to support each other against aggression. With such an undertaking as the New Zealand delegation proposed, and with a firm determination to carry it out, it was, and is, our belief that war would in fact be prevented, that if this determination were fully understood by potential aggressors there would be no aggression. The omission of this provision in fact left the door open to—and indeed invited—evasion, appeasement, and perhaps the sacrifice of smaller and less influential peoples. For all these reasons the New Zealand delegate urged his colleagues to support this amendment.

In view of the restriction of time allowed for debate the Chairman proposed to allow twenty minutes for all speakers on this amendment, including the mover, but on protest he agreed to extend it by another twenty minutes, making forty minutes in all.

The New Zealand amendment was opposed by the delegate of the United States and by the delegate of Great Britain, on the ground that aggression could not be defined; on the ground that it was unnecessary as it merely expressed the intention of the Charter; and, by the United States delegate, on the ground that the word "collective" in the New Zealand proposal might involve the South American Republics in war in Europe, in Asia, and throughout the world.

The amendment was strongly supported by the Belgian representative, M. Rolin, who has had a long and distinguished career in the League of Nations, and by representatives of one or two of the other smaller nations.

On the matter being put to the vote after less than forty minutes of actual discussion there was a general demand for a nominal roll-call in order to ensure that on this point, which was regarded by many Delegations as fundamental, there should be a positive record of those for and against. The sub-committee's rejection of the proposal was soundly reversed, and the New Zealand amendment received 26 votes against 18. The majority, however, fell short by four votes of the two-thirds necessary to make a substantive alteration, but it was a matter of great encouragement to observe the very wide and vociferous measure of approval with which the New Zealand proposal was received.

Subsequently the same proposal was moved again by the Panamanian delegate with the addition of the words "and to preserve the territorial integrity and political independence of each member of the Organzation." This was, in fact, telescoping the two New Zealand amendments as originally proposed, but this amendment received 21 votes against 18, with 3 abstentions, and similarly failed to obtain the necessary two-thirds majority.

In view of the importance which the New Zealand delegation attached to this proposal the leader of the New Zealand delegation took the opportunity at the meeting of the Commission to make the following statement:—

"In my address at the Plenary Session I laid stress on the fact that the nations of the world should have an international rule of conduct set before them clearly and simply, and I added that, in the opinion of the New Zealand Government, this could be done only by the universal pledge by each and every nation that all acts of aggression be resisted.

"In the Rapporteur's report on the work of Committee 1 there is cited the text of an amendment proposed by the New Zealand delegation for the insertion after paragraph 4 in Chapter II of a new paragraph as follows:—

'All members of the Organization undertake collectively to resist every act of aggression against any member.'

It will be observed that this proposal implies no definition of the term 'aggression.' It leaves entirely to the Security Council, of which the Great Powers are all and always members, each with the full right of veto, to decide for itself when in its opinion aggression has actually taken place. The New Zealand proposal is limited to this point, and this point only: that when the Security Council by its specified majority and with concurring votes of all its permanent members has decided that an act of aggression against one of the members of the Organization has taken place, there will immediately result a clear and unmistakable duty on every member of the Organization, great and small, to resist and defeat that aggression by the means laid down by the Security Council.

"In view of the importance which the consideration of this proposal assumed in the Committee, the New Zealand delegation desires through this declaration before Commission 1 to place on public record the fact that, despite the restricted time made available for its discussion in the Committee, the New Zealand amendment received 26 votes in its favour, against 18 contrary votes. It is clear that this vote, while falling short by a very small margin of the two-thirds majority required for the submission of a text to the Commission, shows a substantial majority, which cannot be ignored, in favour of the proposal which, in the opinion of the New Zealand delegation, is of fundamental importance if this Organization is to function effectively.

"The New Zealand delegation does not propose to move an amendment in the Commission, but, in view of the very definite expression of the Committee's opinion in support of the New Zealand amendment, it calls the attention of the Nations assembled at the Conference to what it considers to be a grave defect in the principles of the Charter. We do this with the earnest hope that the Security Council in its work of resisting aggression and establishing and maintaining international peace and justice, with the support of all the United Nations, and with increasing experience and confidence, will find it possible and advantageous to accept the New Zealand proposal in practice as a guiding and basic principle in what I devoutly trust will be its realistic approach to the problems with which it will have to deal."

Considerable discussion arose in Committee 1—and much more in private negotiations outside the Committee—on the clause exempting matters of domestic jurisdiction from the activities of the Organization. This is a matter on which many nations showed themselves susceptible, particularly because of the exceptional powers given under the Charter. Permanent members might in certain circumstances and eventualities in deciding the terms of settlement of a dispute or adjustment of a situation require a member to abide by the will of the Great Powers in a matter of domestic concern. It has been generally recognized that certain matters are solely and properly within the domestic jurisdiction of a State, and under Article 15 of the Covenant of the League such matters were withdrawn from the operation of the League. At San Francisco many delegates felt that in certain cases it would be proper in the interests of peace and justice, and in the preservation of fundamental human rights, to interfere in the internal affairs of Member States. For example, the case of the dreadful cruelties practised in Germany on Jews, Clergy of Catholic and Protestant Churches, Socialists, Communists, and any section of the community which failed to grovel to the Nazis was generally admitted to be an obvious example of a situation in which the World Organization would be entitled—indeed, bound—to intervene. There was, however, extreme difficulty in finding a form of words that would allow sufficient latitude for the Organization to act in such matters and at the same time to make it plain that the sovereign rights of all members were not to be attacked. In the event a solution was found and the following text put forward by the sponsoring Powers and amended in accordance with proposals by Dr. Evatt, the Australian delegate, with whose Delegation New Zealand had closely collaborated on this issue, was adopted in the Committee by a majority of 33 to 4:—

> "Nothing contained in this Charter shall authorize the Organization to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the members to submit such matters to settlement under this Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VIII, Section B."

COMMISSION I COMMITTEE 2

GENERAL PROVISIONS: MEMBERSHIP, AMENDMENTS, AND SECRETARIAT

NEW ZEALAND REPRESENTATIVES

Delegate RT. HON. P. FRASER
Alternate MR. J. V. WILSON

TERMS OF REFERENCE

THE FOLLOWING Chapters of the Dumbarton Oaks proposals were remitted to Committee I/2:—

Chapter III *Membership.*
Chapter IV *Principal Organs.*
Chapter X *Secretariat.*
Chapter XI *Amendments.*

MEMBERSHIP

Chapter III of the Dumbarton Oaks Proposals reads:—

"Membership of the Organization should be open to all peace-loving States."

At the outset of the discussion the selective principle which is at the basis of the Dumbarton Oaks proposals on membership was challenged by the delegate of Uruguay. He proposed that membership of the Organization should be universal and permanent, all States being members as of right, and none being permitted to withdraw, or to be expelled. The membership of States other than those represented at the Conference should be considered as suspended until the Assembly should hold that they were in a position to act within the Organization.

The Committee did not uphold this viewpoint and concerned itself chiefly with the search for some more precise definition than is offered by the term "peace-loving." However, the term "peace-loving," like most of the original Dumbarton Oaks phraseology, was found to have strong survival value, and appears in the final text. This distinguishes between initial members which will be members as of right and those which must apply for admission. It reads:—

"The original members of the United Nations shall be the States which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January, 1942, sign the present Charter and ratify it in accordance with Article 110." (Article 3 of Charter.)

"Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations." (Article 4, para. 1, of Charter.)

Consideration of the means by which new members were to be admitted to the Organization—*i.e.*, decision of the General Assembly upon recommendation of the Security Council—was outside the purview of Committee I/2, which was concerned only with the grounds upon which membership could be obtained.

The examination by the full Commission of the Chapter on membership was enlivened by the presentation of the following Declaration by the delegation of Mexico:—

"It is the understanding of the delegation of Mexico that paragraph 2 of Chapter III* cannot be applied to the States whose regimes have been established with the help of military forces belonging to the countries which have waged war against the United Nations, as long as those regimes are in power."

* Article 4, para. 1, of Charter.

The Declaration was introduced in a speech indicating the assistance given by General Franco to the Axis Powers. Received with much applause and supported by several speakers, including Mr. James C. Dunn, Assistant Secretary of State, the Declaration was admitted unanimously into the Record of the Conference.

Suspension and Expulsion

Though Chapter III of the Dumbarton Oaks Proposals contained no reference to expulsion from the Organization, or suspension of the rights of membership, the following passage from Chapter V was considered to be within the competence of Committee I/2 so far as concerns the grounds upon which expulsion or suspension could take place:—

> "The General Assembly should, upon recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by decision of the Security Council. The General Assembly should be empowered, upon recommendation of the Security Council, to expel from the Organization any member which persistently violates the principles contained in the Charter."

The New Zealand delegation, believing that it would be wise to enlarge the grounds on which the *suspension* of the rights of a member could be effected, moved an amendment to insert, after the word "Council" at the end of the first sentence in the above text, the words "or which in any way shall have violated the obligations of membership."

This amendment, which had been moved and rejected in the Committee dealing with the procedures of the Assembly (Committee II/1) was considered along with other amendments bearing on suspension and expulsion by a sub-committee of I/2. On the Report of the sub-committee, the Committee adopted the following text which agreed in principle with the New Zealand amendment:—

> "The Organization may at any time suspend from the exercise of the rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council, or which shall have violated the principles of the Charter in a grave or persistent fashion. The exercise of these rights and privileges may be restored in accordance with the procedure laid down in Chapter , para. ."

In bringing forward this improved text the sub-committee also proposed that the power of the Organization to *expel* a member should be removed from the Charter.

As is noted below, the Committee finally decided to maintain provision for *expulsion* in the Charter. At the same time it returned to a more restricted text on *suspension*, as follows:—

> "A member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council." (Article 5 of Charter.)

In the view of the New Zealand delegation it would have been preferable to endow the Organization with wide powers of suspension, irrespective of the powers which it might possess in regard to expulsion.

The recommendation of the sub-committee, referred to above, that no power to *expel* a member should appear in the Charter was the subject of keen debate. Those who supported the recommendation argued that the proposed wider powers of suspension would provide the Organization with full liberty of action against a

recalcitrant member and that expulsion might entail more drawbacks for the Organization than for the State concerned. Of their number, naturally, were those who stressed the universal character of the Organization. The fact that, owing to the "veto," expulsion could not in any case be applied to the Great Powers was an additional argument. The argument of those favouring expulsion, among which all the Great Powers were included, was, briefly, that this was a power which the Organization ought to possess to be used in the last resort against an incorrigibly recalcitrant State.

There voted *for* the inclusion of a reference to expulsion 19 States (including New Zealand); *against,* 16 States. Since the vote did not attain the required two-thirds majority it was ruled that reference to expulsion should be omitted from the Charter.

At the suggestion of the U.S.S.R., the Steering Committee asked Committee 1/2 to vote again on the matter. The second vote gave, in effect, the same results as the first.

At the final meeting of the Committee the matter was put to a third vote. Most of those who had voted against expulsion abstained, with the result that the following provision was adopted:—

> "A member of the United Nations which has persistently violated the principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council." (Article 6 of Charter.)

Withdrawal

The sub-committee which examined Expulsion and Suspension also considered Withdrawal. Its conclusions were summarized as follows:—

> "On the question of withdrawal from the Organization the Chairman explained that the sub-committee had considered this matter and was of the opinion that the Dumbarton Oaks proposals deliberately omitted provisions for withdrawal in order to avoid the weakness of the League Covenant, which had permitted withdrawal. The sub-committee was strongly of the opinion that withdrawal should be impossible."

When it became apparent that there was no possibility of modifying the voting formula for the Security Council (the "veto" clause) and, particularly, that amendments to the Charter could be brought into force only if ratified by all the permanent members of the Security Council, there was a revulsion of feeling in favour of some provision for withdrawal. After full debate on the last day of the Committee's work the Committee voted on the question whether withdrawal should be expressly provided for in the Charter. There voted affirmatively, 19 States; negatively, 22 States (including New Zealand). At the same time the Committee adopted by 38 votes (including New Zealand) to 2, the following text for inclusion in its report:—

> "The Committee adopts the view that the Charter should not make express provision either to permit or to prohibit withdrawal from the Organization. The Committee deems that the highest duty of the nations which will become members is to continue their co-operation within the Organization for the preservation of international peace and security. If, however, a member, because of exceptional circumstances, feels constrained to withdraw, and leave the burden of maintaining international peace and security on the other members, it is not the purpose of the Organization to compel that member to continue its co-operation in the Organization.
>
> "It is obvious, however, that withdrawals or some other forms of dissolution of the Organization would become inevitable if, deceiving the hopes of humanity, the Organization was revealed to be unable to maintain peace or could do so only at the expense of law and justice.

"Nor would it be the purpose of the Organization to compel a member to remain in the Organization if its rights and obligations as such were changed by Charter amendment in which it has not concurred and which it finds itself unable to accept, or if an amendment duly accepted by the necessary majority in the Assembly or in a general Conference fails to secure the ratification necessary to bring such amendment into effect.

"It is for these considerations that the Committee has decided to abstain from recommending insertion in the Charter of a formal clause specifically forbidding or permitting withdrawal."

When the report of Commission I embodying the above text on withdrawal came before the full Conference, the Chairman of the delegation of the U.S.S.R. placed on record his dissent from the text, on the ground that it condemned in advance the reasons for which a State might withdraw from the Organization.

PRINCIPAL ORGANS

New Zealand, like several other countries, moved an amendment to the effect that the Economic and Social Council should be included in the list of principal organs. This was done. The Trusteeship Council was also included.

The delegate of Uruguay moved that representation and participation in the organs of the Organization should be open both to men and women under the same conditions. The motion was supported by several delegates. Indeed, there was no evidence of opposition to the principle of equal rights, but some delegates thought that this was a matter which could now be taken for granted and did not require express mention in the Charter.

After an extremely prolonged discussion in Committee and consideration by a sub-committee, the following text was adopted:—

"The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in the principal and subsidiary organs." (Article 8 of Charter.)

At the meeting of the Commission which considered the Committee's report the New Zealand delegate (the Right Honourable P. Fraser) welcomed the clause as a clear and definite statement of the principle of sex equality and as due recognition of the part played by women in the war, and paid a tribute to the work done by the women delegates of the Conference, especially those from Latin America.

SECRETARIAT

The original text of the Dumbarton Oaks Chapter X on the Secretariat has been considerably amplified in the Charter. Amendments asserting the international character of the Secretariat were put forward by the sponsoring Powers as well as by New Zealand, Canada, and other States. A sub-committee, on which New Zealand was represented, was asked to collate the amendments and the texts recommended by it appear as Articles 98–101 of the Charter.

Articles 98, 99, and 100 were adopted unanimously by the Committee. The adoption of Article 99 followed the rejection of two amendments, of which one would have authorized the Secretary-General to bring to the attention of the General Assembly, as well as of the Security Council, any matter which in his opinion might threaten international peace and security, and the other would have authorized the Secretary-General to bring to the attention of the Security Council any matter which constituted an infringement or variation of the principles of the Charter.

The New Zealand representative opposed both these amendments on the grounds that the Secretary-General was primarily an administrative officer, and that to impose upon him political responsibility (additional to the important new responsibilities conferred under Article 99) might, on balance, impair his usefulness.

Article 97 was adopted only after a long struggle in full Committee. This centred round the following amendment to the corresponding paragraph of the Dumbarton Oaks proposals (X/1) brought forward by the sponsoring Powers.—

> " 1. There should be a Secretariat comprising a Secretary-General, *four deputies,* and such staff as may be required. ~~The Secretary-General should be the chief administrative officer of the Organization. He should be elected by the General Assembly, on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.~~ *The Secretary-General and his deputies should be elected by the General Assembly on recommendation of the Security Council for a period of three years, and the Secretary-General should be eligible for re-election. The Secretary-General should be the chief administrative officer of the Organization."*

The delegates of Netherlands, Belgium, Canada, and New Zealand took an active part in opposing this amendment, which was energetically pressed by the sponsoring Powers.

No objection was taken to the election of the Secretary-General by the General Assembly on the recommendation of the Security Council. Indeed, the Committee refrained from taking a decision on this matter on the grounds that Committee II/1 had voted that the Secretary-General should be elected by the General Assembly upon nomination by a majority of seven members of the Security Council.

While welcoming the provision in the amendment for the re-eligibility of the Secretary-General, the New Zealand and other delegates objected to the stipulation in the Charter of the term of "three years." They felt that the term was too short, and might limit the field of suitable candidates. They preferred that no mention should be made in the Charter of the term of office which should be left to the Organization itself to decide.

The Committee approved by a large majority the sponsoring Powers' amendment concerning the term of office and re-eligibility of the Secretary-General. However, at the concluding meeting of the Committee the matter was reopened by the Netherlands delegate on the ground that the decision of Committee II/1 regarding the nomination of the Secretary-General by a vote of any seven members of the Security Council had been invalidated. It was now agreed that the affirmative vote of all the permanent members would be required for that nomination. This, he argued, changed the whole situation.

After supporting speeches by the delegates of New Zealand and Belgium, the Committee reversed its previous decision and decided to omit all reference in the Charter to the term of office of the Secretary-General. It was understood that this matter should be settled later by agreement between the General Assembly and the Security Council, the latter, of course, voting, as in the case of the nomination of the Secretary-General, by a qualified majority.

The New Zealand and other delegates also took exception to that part of the amendment of the sponsoring Powers which concerns the Deputy Secretaries-General. They argued that the effect of these provisions would be to contradict in actual fact the international character of the Secretariat, which all were agreed was desirable. The Deputies, receiving their mandate, like the Secretary-General himself, direct from the Security Council and General Assembly, could hardly be expected to work under him as a team. They would probably be nationals of the Great Powers and, being appointed for only three years in the first instance, would feel that their careers lay much more with their own Governments than with the Secretariat. The result would be a small group of national representatives, of virtually equal status, constituting a kind of *Corps Diplomatique* at the head of the Secretariat. This was not the way to secure an efficient and loyal administration.

A vote was taken on the question whether there should be mention of the Deputy Secretaries-General in the Charter. 15 States voted affirmatively, 13 (including New Zealand) negatively—*i.e.*, the majority was less than the two-thirds required.

The Steering Committee referred the matter back to Committee I/2 for reconsideration on the ground that the vote should have been taken on a text of the proposed Charter.

A motion by the U.S.S.R. providing in the Charter for five deputies, to be elected in the same manner as the Secretary-General, received 20 votes in favour and 19 (including New Zealand) against —*i.e.*, the motion was again rejected, the majority being less than two-thirds.

The original amendment of the sponsoring Powers in favour of four deputies was then put and received 22 in favour and 18 (including New Zealand) against—*i.e.*, the motion was rejected, the majority being less than two-thirds.

At the concluding meeting of the Committee an amendment was proposed to make the Article read as follows:—

> "There shall be a Secretariat comprising a Secretary-General, *deputies*, and such staff as may be required. The Secretary-General shall be the chief administrative officer of the Organization. The Secretary-General *and his deputies* shall be elected by the General Assembly, on recommendation of the Security Council."

The motion received 12 votes in favour and 24 (including New Zealand) against. Therefore the Committee finally followed the Dumbarton Oaks text, in accordance with the policy advocated by the New Zealand and other delegates, rather than that of the sponsoring Powers' amendment.

AMENDMENTS

Regular Amendments to the Charter

The Dumbarton Oaks proposals provide that:—

> "Amendments should come into force for all members of the Organization, when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization." (Chapter XI.)

The only change made by the Committee was to require ratification by two-thirds of the members, including all the permanent members of the Security Council. (Article 108 of Charter.)

Special Conference to Review Charter

It was around this point that the struggle for an easier process of amendment chiefly turned.

The question of a special conference was introduced in the following proposal brought forward by the sponsoring Powers:—

> "A general conference of the members of the United Nations may be held at a date and place to be fixed by a three-fourths vote of the General Assembly with the concurrence of the Security Council voting in accordance with the provisions of Chapter VI, Section C, paragraph 2, for the purpose of reviewing the Charter. Each member shall have one vote in the Conference. Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization."

The words "three-fourths" in the first sentence were subsequently changed by agreement to "two-thirds."

In the prolonged discussion which took place both in Committee and in a sub-committee appointed to consider the amendment of the sponsoring Powers and other relevant proposals, the two chief isues were: the time limit for calling the Conference; the question of ratification.

Time Limit.—Various delegates urged that there should be written into the Charter not only the possibility of calling a revisionary Conference, which was provided for by the sponsoring Powers' amendment, but the certainty that such a Conference would be called within a given time. They argued that the Charter contained features which might be so objectionable to public opinion in their own countries that it was most important to hold out a sure prospect of reconsideration after a term of years.

A motion by Canada and Brazil providing for a special conference between the fifth and tenth years after the coming into force of the Charter received 23 votes (including New Zealand) in favour, and 17 against—*i.e.*, it was rejected, the majority being less than two-thirds.

A motion by South Africa providing for a special conference to be held not later than the tenth year after the coming into force of the Charter received 28 votes (including New Zealand) in favour, and 15 against—*i.e.*, it was rejected, the majority being less than two-thirds.

After this clear, but insufficient, expression of the will of the Committee, the U.S.A. moved the following addition to the sponsoring Powers' amendment:—

> "If such a general Conference has not been held before the tenth annual meeting of the Assembly following the entry into force of the Charter, the proposal to call such a general Conference shall be placed on the agenda of that meeting of the Assembly."

While welcoming this proposal as a "gesture," various delegates made suggestions designed to give it a somewhat more solid content. Among these was a suggestion by the New Zealand delegate that the special Conference should be held after the tenth year "unless the General Assembly and Security Council should otherwise decide."

The text finally adopted does in fact represent an advance towards the position taken by the middle and smaller Powers. 42 votes (including New Zealand) were cast in its favour; one delegation (U.S.S.R.) voted against, on the grounds that to go beyond the original proposal of the sponsoring Powers might have the effect of providing for re-examination of the Charter when there was no need for it. The additional paragraph now reads (Article 109, para. 3):—

> "If such a Conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a Conference shall be placed on the agenda of that session of the General Assembly, and the Conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council."

Ratification.—The crux of the whole problem of amendments as regards both the special Conference and the ordinary amending process is, of course, the requirement that ratification by all the permanent members of the Council is required to bring amendments into effect. In common with several other delegates, the delegate of New Zealand (the Right Honourable P. Fraser) emphasized how repugnant to the traditions of his own country was a provision of so undemocratic a character. Like other delegates, he had consistently opposed the "veto" clause in regard to the voting formula for the Security Council. Though he now reluctantly had to accept the veto arrangement as inevitable for the near future, he saw no

justification in their being perpetuated. The least that could be asked for was that after a stated time it should be possible to amend the veto clause, together with other features of the Charter.

The unreason of maintaining for ever the dead hand of the five Powers on amendment was particularly apparent when one considered the changes which inevitably took place in the Power relations of States. Who could say if all five Powers would be truly Great Powers in ten years' time? Were they all truly Great Powers even now? If the Conference could not agree that the desire of three or even four Great Powers sufficed to bring into effect amendments agreed to at the special Conference and ratified by a sufficient number of other Powers, would it not be possible to leave the whole question of ratification open to be decided by the Conference when it met?

Though he did not disguise his opinion that this was the most serious blot on the Charter, he would bow to the inevitable if the only alternative was no Charter. However, he made the strongest appeal to the Great Powers to go some way to meet the views of the smaller Powers.

No sign appeared at any time of the Great Powers yielding on this point. By a majority which just attained the required two-thirds (29 votes in favour and 14 (including New Zealand) against), the Committee adopted the following text:—

> "Any alterations of the Charter recommended by a two-thirds vote of the Conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council." (Article 109, para. 2.)

COMMISSION II COMMITTEE 1

STRUCTURE AND PROCEDURES OF THE GENERAL ASSEMBLY

NEW ZEALAND REPRESENTATIVES

MR. A. D. MCINTOSH

MR. J. V. WILSON

IT WAS the function of the COMMITTEE ON STRUCTURE AND PROCEDURES to recommend draft provisions of the Charter relating to Chapter V, Sections A, C, D, and to paragraphs 2, 4, and 5 of Section B.

On the whole the subjects considered related essentially to procedural matters. Important and controversial policy questions, such as the terms of appointment of a Secretary-General, the question of Deputy Secretaries-General, suspension, withdrawal, and expulsion, were referred to and dealt with by other Committees. The attitude adopted by the New Zealand delegation on these questions is referred to under the relevant reports of other Committees, and will be found elsewhere in this document. Throughout the deliberations of Committee II/1 the tendency was, wherever possible, to increase the authority of the Assembly and to scrutinize with the utmost care any restrictions which the Great Powers sought to impose upon the more widely representative body.

At an early meeting, when the conditions of appointment of the Secretary-General were introduced, the New Zealand representative pressed for the elimination of the concurring vote of all of the permanent members of the Security Council. Although a provision to this effect was eventually adopted by the Committee, after prolonged discussion,, objection was raised by the Great Powers to the elimination of their right of veto, and it was subsequently ruled that such action on the part of this Committee dealing with Assembly

matters was beyond its jurisdiction, and the original Dumbarton Oaks proposal, which provided for the veto of the permanent members of the Security Council, was eventually restored.

Committee II/1 amplified the provisions of the Dumbarton Oaks proposals on the apportionment of expenses and approval of the Budget, and recommended that the General Assembly should be empowered to apportion the expenses among the members and to consider and approve the Budgets of the Organization as well as any financial and budgetary arrangements with specialized agencies. This change was fully supported by the New Zealand delegation.

On the composition of the Assembly the New Zealand representative supported an additional provision for representation of each delegation by not more than five members.

Voting rights were covered by the recommendation that each member State should have one vote in the General Assembly. The Committee also recommended that States failing to fulfil their financial obligations should be deprived of all voting rights in the Assembly so long as they are in arrears. This change was in accordance with the purpose of a New Zealand amendment and was supported by the New Zealand representative, who also supported the proposal that members should be deprived of voting rights in the Assembly if they fail to carry out the security obligations in Chapter VIII, Section B, paragraph 5. Action on this latter recommendation was finally dropped.

The Committee recommended that the following important questions should be decided in the Assembly by a two-thirds majority:—

Recommendations with respect to the maintenance of international peace and security.
The election of the non-permanent members of the Security Council.
The election of the members of the Economic and Social Council.
The election of new members of the Trusteeship Council.
The admission of new members to the United Nations.
The suspension of the rights and privileges of members.
The expulsion of members.
Questions relating to the operation of the Trusteeship System.
Budgetary questions.

New Zealand also supported the proposal for open Assembly sessions. It was, however, decided, both in this Committee and later in the Commission, that as the Assembly was enabled to fix its own rules of procedure it was not advisable to specify this provision in the Charter itself.

COMMISSION II COMMITTEE 2

POLITICAL AND SECURITY FUNCTIONS OF THE GENERAL ASSEMBLY

NEW ZEALAND REPRESENTATIVES

Delegate Rt. Hon. P. Fraser
Alternate Mr. A. D. McIntosh

This Committee was charged with the preparation and recommendation of provisions of the Charter relating to Chapter V, Section B, of Dumbarton Oaks Proposals. These covered the political and security functions of the General Assembly, the specific powers of the Assembly in regard to international co-operation in general, the Assembly's general reviewing authority over action by the Security

Council, the initiation of studies and making of recommendations by the Assembly regarding international law, and the revision of treaties and the receipt and consideration of reports by the Assembly.

To New Zealand, as to the other smaller Powers, the questions considered by this Committee were of outstanding importance, particularly those relating to the functions of the Assembly and its relationship with the Security Council. Unlike the Assembly of the League of Nations, which could deal with any matter within the sphere of action of the League, the General Assembly as proposed at Dumbarton Oaks was merely a forum with a somewhat limited range of discussion.

As a result of this Committee's exhaustive examination and discussions, covering twenty-five meetings, the functions of the General Assembly were strengthened. Subject to the one important qualification—that it should not make recommendations on a matter being dealt with by the Security Council—it was finally agreed that the General Assembly could discuss anything within the scope of the new Organization; and, further, the Conference succeeded in generally widening the scope of the Organization to include not only questions of peace and security, but those relating also to human rights, to colonial peoples, and economic causes of conflicts.

This section of the Charter had been studied with particular interest by New Zealand, and several amendments were put forward. At the second meeting of the Committee on 7 May Mr. Fraser moved the first New Zealand amendment to paragraph 1 of Section B, of Chapter V—namely, that "The General Assembly should have the right to discuss any matter within the sphere of international relations," and, second, the deletion of the limiting provisions contained in the last sentence of Section B, paragraph 1. This motion produced an immediate discussion, in which it was apparent that there was very wide support for the New Zealand desire to increase the powers of the Assembly.

At the next meeting, on 9 May, although the Committee was still discussing paragraph 1, the principal United States delegate, Senator Vandenberg, moved a composite amendment to paragraph 6 of Section B. He explained that he took this course because the proposal he was putting forward was of particular relevance and would probably influence the attitude of delegates towards paragraph 1 which was under discussion. This was as follows:—

> "The General Assembly should initiate studies and make recommendations for the purpose of promoting international co-operation in political, economic, social, and cultural fields to assist in the realization of human rights and basic freedoms for all, without distinction as to race, language, religion, or sex, and also for the encouragement of international law.
>
> "Subject to the provisions of paragraph (1) of this section, the General Assembly should be empowered to recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the purposes and principles set forth in this Charter."

Senator Vandenberg stated further that while the second part of this composite amendment, which was obviously based on his own previously expressed and widely acclaimed views, had been put forward by the United States it had since been agreed to by the other sponsoring Powers and France.

The Senator made it clear that it was his wish that the Assembly should be what he termed the "town meeting of the world," and that he did not, moreover, want its powers to be circumscribed by definition, but to be left as wide as possible.

In the course of the ensuing debate the relation between Senator Vandenberg's amendment and paragraph 1 then under discussion were considered. The new proposal was warmly welcomed by many members as a desirable enlargement of the powers of the General Assembly, and undoubtedly the concessions it contained went a long way towards meeting the New Zealand point of view, although the essential differences between the two viewpoints remained—namely, the desire on the part of the sponsoring Powers to eliminate any possibility of decisions of the General Assembly conflicting with those of the Security Council.

The introduction of the Vandenberg Amendment to paragraph 6 led the New Zealand delegate to suggest, for the purpose of hastening discussion, a postponement of further consideration on his own first amendment to paragraph 1.

Eventually the Committee agreed to vote on Senator Vandenberg's proposal, and it was agreed, further, that he should take the sponsoring Powers draft of paragraph 1, Section B, after having also taken into account other proposals put forward during the discussion, and bring it back to the Committee, with possible amendments, for final approval.

While this redraft was being prepared discussion continued on the other United Nations amendments to paragraph 1. The sub-committee charged on 10 May with correlating the various proposals relating to Chapter V brought forward for consideration nine questions of which the third New Zealand amendment—namely, the deletion of the last sentence of paragraph 1—was first on the list, as being the most radical departure from Dumbarton Oaks. This was expressed by the sub-committee in the following terms:—

> "Should the General Assembly be enabled to make on its own initiative recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council?"

In support of the amendment urging that the Assembly should have the right to discuss anything and everything within the sphere of international relations, the New Zealand delegate had declared earlier in the debate that if this were not accorded formally the ultimate result would be the same, since the Assembly could in fact discuss anything and, further, that it could make declarations which would probably be just as effective as recommendations.

The arguments put forward on the other side were based on the grounds that the Assembly should not make recommendations on matters being actively dealt with by the Security Council, otherwise jurisdictional conflicts might arise at times of crisis. It was suggested that the division of functions between the Security Council and the General Assembly provided in the Dumbarton Oaks text was fundamental to the whole conception.

In supporting the principle of non-limitation on the Assembly's powers, and its status as the forum of world public opinion, the New Zealand delegate emphasized that the problem confronting the meeting was one of reconciling democracy and efficiency. He expressed his firm opposition to any arrangement which would diminish the powers of the General Assembly and at the same time result in the virtual dictatorship of the Big Powers. In particular, he stressed the desirability of effecting changes in the Charter to enable the Assembly to check any dilatoriness, evasion, unreasonable veto, or obstruction on the part of the Security Council.

In his concluding remarks he made a plea for recognition of the fact that just as the smaller Powers had contributed readily and usefully towards the successful conclusion of the war, so they should be given the opportunity to participate fully in the machinery for the prevention of future wars.

On 15 May Senator Vandenberg brought back the redraft of paragraph 1, Section B, Chapter V, as approved by the sponsoring Powers and France.* This was now divided into two parts, the first dealing with "general principles" and the second with "questions." He said he hoped that this proposed clarification of the relations between the Assembly and the Security Council would expedite the business of the Committee, and suggested that it would justify a negative answer to question No. 1, which embodied the New Zealand amendment. After further debate, during which several delegates indicated their attitude to the New Zealand amendment in the light of the new considerations introduced by Senator Vandenberg's statement, question No. 1 was put, with the result that 16 votes were given in the affirmative and 26 against.

Discussion thereafter was centred on the ninth question, put forward by the sub-committee, based on the Australian amendment, which had been restated as follows:—

> "Subject to any exceptions specifically provided, should the Assembly have general power to discuss and make recommendations in respect of any matters affecting international relations?"

It was apparent from the discussions that the majority held the view that there should be no limitation whatsoever upon the right of the General Assembly to discuss any matter in the sphere of international relations; that the only limitation on the Assembly's power to make recommendations should be in respect of matters relating to the maintenance of peace and security during the period when the Security Council was dealing with such matters, and that the interpretation of the expression "international relations" should be the widest possible. It was also recorded that the Assembly should be free to make recommendations on any question once the Security Council had finished dealing with it. Question No. 9 was affirmed unanimously by 42 votes on 18 May, but a protracted conflict immediately arose in the drafting sub-committee on the point of whether or not the adoption of this proposition actually called for modification of the revised text approved by the sponsoring Powers. After a number of inconclusive meetings the matter was brought back to the Committee for decision with the submission of a proposed new first paragraph to Section B, viz:—

> "The General Assembly should have the right to discuss any matter within the sphere of international relations, and, subject, to the exception embodied in paragraph below, to make recommendations to the members of the Organization or to the Security Council, or both, on any such matters."

A number of objections were raised, the chief of which was the view that without the qualification of the phrase "within the sphere of international relations" by the words "which affects the maintenance of international peace and security" the new paragraph would give the Assembly too broad a scope, since the main purpose of the Organization was to maintain peace and security, and that therefore the proposed new paragraph either should be rejected or, if adopted, should be clarified by inserting the qualifying words as proposed.

* 1. The General Assembly should have the right to consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments *and to make recommendations to the Governments or to the Security Council on such principles.*

2. *The General Assembly should have the right* to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council, and to make recommendations *to the Governments or to the Security Council* with regard to any such questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. *The General Assembly should have the right to call the attention of the Security Council to situations which are likely to endanger international peace or security. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it under this Charter, the General Assembly should not make any recommendation with regard to that dispute or situation unless the Security Council so requests. The Secretary-General shall be required to notify the General Assembly at each session of any matters relative to the maintenance of international peace or security which are being dealt with by the Security Council and also to notify the General Assembly immediately the Security Council ceases to deal with such matters.*

It was contended, on the other side, that the Assembly in its character as "the town meeting of the world" could frame its own rules of procedure, and would therefore have full control of the Organization and its business and that the Assembly of the League had got through its business in spite of the wide jurisdiction given to it by the Covenant.

As the first sentence of this proposed redraft of Chapter V, Section B, paragraph 1, represented the original New Zealand amendment, and as it was clear that the second sentence represented the viewpoint of the majority of the other Powers, New Zealand supported the adoption of the new clause. The proposal, without the qualifying phrase, "which affects the maintenance of international peace and security," was adopted by 27 votes to 11.

Although Committee II/2, then adopted the text of the redraft of paragraph 1, Section B, Chapter V, together with the amendment referred to above, the whole question was revived a fortnight later by the Russian delegation, who had pressed throughout for the retention of the Dumbarton Oaks text, which had provided that the Assembly should have the right to discuss any question relating to the maintenance of international peace and security. This action, in the eighth week of the Conference, involved a further prolonged struggle.

In particular the Soviet delegation argued that the seeming liberalism of this paragraph concealed an element of danger to the effectiveness of the Organization as a whole, as well as to individual members, because it gave the Assembly the right to discuss any matter within the sphere of international relations. This meant, they said, that any member of the Assembly which did not like the action of its neighbours could place that action before the Assembly for its consideration. Immigration and Customs laws were cited as examples. The Soviet representative regarded such procedure as a direct infringement of the sovereignty of the State against which recommendations could be adopted by the General Assembly, and he protested further that even though the General Assembly did not make any recommendation the very discussion of the matter might strain the relations between the States concerned. The Soviet delegation suggested, therefore, that the clause be referred back to Committee II/2 for review.

The Australian delegate (Dr. Evatt) took the view that the fears of the Soviet delegation were unfounded because the Charter provided elsewhere that nothing contained in it authorized the Organization to interfere in matters of domestic jurisdiction. This question was referred to a special meeting of the Steering Committee, which in turn set up a sub-committee consisting of its Chairman, Mr. Stettinius, the chairman of the Russian delegation, M. Gromyko, and the Australian Minister of External Affairs, Dr. Evatt.

After further strenuous negotiations over the week-end a compromise formula was drafted, and the following new clause was adopted by the Committee:—

> "The General Assembly has the right to discuss any questions or any matters within the scope of the Charter or relating to the powers and functions of any organizations provided in the Charter, and, except as provided in paragraph 2 (*b*) of this section to make recommendations to the members of the United Nations or to the Security Council, or both, on any such questions or matters."

M. Gromyko, in expressing his agreement, explained that he regarded the clause as being not as broad as the original text which the Committee had approved on 18 May, but as broad as the scope of the Charter. Dr. Evatt, as the spokesman of the smaller Powers, felt that it was as broad as was necessary and that any further discussion should be avoided lest attempts be made to circumscribe it further.

The successful conclusion of this matter ended the last controversy of the Conference.

COMMISSION II COMMITTEE 3

ECONOMIC AND SOCIAL COUNCIL ARRANGEMENTS FOR INTERNATIONAL CO-OPERATION

NEW ZEALAND REPRESENTATIVES

Delegate RT. HON. P. FRASER

Alternate MR. B. R. TURNER

THE TASK assigned to this Committee was the consideration of those portions of the Dumbarton Oaks proposals which dealt with arrangements for international economic and social co-operation. These comprised the whole of Chapter IX and paragraphs 6 and 7 of Section B, Chapter V, in so far as these concerned economic, social, cultural, and other related questions. In addition, Committee II/2 made recommendations to other technical committees, notably with reference to Chapter IV (Principal Organs) of the Dumbarton Oaks text. The Committee held in all twenty-one full sessions, the drafting sub-committee meeting on nineteen occasions. Virtually every question which came before it was most thoroughly debated, and, although some issues revealed marked differences of opinion which seldom lacked vigorous expression, all the recommendations embodied in the Committee's report were supported unanimously and the report itself was adopted without dissent or reservation, both by the Commission and the Conference. This most successful result was due in substantial measure to the fact that all forty-nine members of the Committee shared a common purpose and a common anxiety to see that purpose fulfilled to the fullest possible extent in the course of their deliberations at San Francisco.

One or two general observations on the results of these deliberations may not be out of place. First, they represent a substantial advance beyond the useful, though somewhat timid, proposals which emerged from Dumbarton Oaks. In contrast to the experience of many other Committees of the Conference, the Economic and Social Committee was not handicapped by the limitations and delays caused by the reluctance of the sponsoring Powers to accept or, indeed, to consider any serious departure from Dumbarton Oaks in so far as it affected such fundamental provisions, as, for example, the veto power of the Big Five. This fact was reflected in both the scope and the nature of the Committee's discussions, which embraced many matters of substance not specifically dealt with in the Dumbarton Oaks text and which were conducted for the most part in a free, frank, and thoroughly democratic manner. In discussing or voting on matters coming before them, members of the Committee seldom permitted considerations based on their special interests as "big" or "little" Powers or stemming from their particular regional or political affiliations to obtrude unduly upon the major consideration of reaching agreement on the best and most effective arrangements for future co-operation between the United Nations in economic, social, and related fields.

They were conscious from the outset of having a positive task to perform. Representatives of the smaller countries, particularly, were conscious also of the fact that the Economic and Social Council would be one organ of the new world organziation in which they would be assured not only of an adequate voice, but also of a full and equal opportunity along with the great Powers of participating in decisions and of formulating policies vitally affecting the course of world affairs. Consequently, while in general the Dumbarton Oaks proposals were considered unobjectionable in

themselves, there was a widespread desire to see the scope and functions of the Economic and Social Council considerably broadened and its status and power correspondingly increased.

This desire was fully shared by the New Zealand delegation, whose representatives on the Committee played an active part in sponsoring such amendments and additions to the Dumbarton Oaks text which, in their opinion, would make for a stronger and more effective Council. New Zealand's approach to the problems considered at San Francisco was broadly conditioned by the policy declarations announced at the conclusion of the Australian–New Zealand Conference held in Wellington during November, 1944. These declarations, in so far as they concerned international economic and social policy, were, briefly, as follows:—

(1) Some of the most important principles in regard to the promotion of human welfare which, with security, should be a central objective of the new Organization, are those set forth in the Atlantic Charter, and the more recent Philadelphia Declaration of the I.L.O.

(2) One of the most important first steps towards the attainment of this objective would be the recognition by each nation that full employment is the first need both in its own interests and in the interests of all other nations. International agreement to pursue domestic policies of full employment is therefore fundamental to all international co-operation for the promotion of human welfare.

(3) The condition underlying all others which the Organization should fulfil is that the members should fully honour the obligations they assume. Since the power of Governments to perform what has been promised will depend on the people's support, and therefore on their understanding of the pledges given, the Charter should make clear to the peoples of the world the principles on which action is to be based.

On the basis of these general policy objectives, New Zealand's efforts were specifically directed to the following ends at San Francisco: first, to make the Economic and Social Council a principal organ of the United Nations; second, to broaden and reinforce the statement of purposes, and in particular to include in this statement a reference to the promotion of full employment, together with a pledge on the part of individual members that everything possible will be done to ensure the purposes of the Organization being carried out; third, to bring about the fullest collaboration and consultation between the Economic and Social Council and all other international organizations, both governmental and non-governmental, which are concerned with matters within the Council's competence and whose co-operation and advice might be helpful; fourth, to liberalize and extend the powers and functions of the Council; and, fifth, to maintain the Council's essentially democratic structure and procedure, preserving for it, at the same time, the maximum freedom to determine its own rules and organizational arrangements. A comparison of the Dumbarton Oaks text with the corresponding provisions as amended and added to at San Francisco will show that in practically every instance the efforts for improvement made by various delegations, notably Australia and New Zealand, met with a gratifyingly large measure of success.

The Australian delegation, whose Government had on previous occasions at international conferences endeavoured to obtain agreement on their objective of "full employment," are deserving of the utmost credit for the vigorous advocacy of their valuable amendments.

Status of Economic and Social Council

The suggestion that the Economic and Social Council should be listed in Chapter IV as a principal organ of the United Nations Organization found ready acceptance, and the Committee early in its proceedings voted unanimously in favour of a recommendation to this

effect. Amendments on this point had been submitted by seven delegations, including New Zealand, which had formally presented an amendment in these terms:—

That, after subparagraph (*b*) of paragraph 1 of Chapter IV, a new subparagraph be added as follows: "An Economic and Social Council".

It was in this form that the Committee's recommendation was finally adopted.

The readiness and unanimity with which this substantive amendment was accepted is indicative of the importance which all nations, large no less than small, attach to the necessity of constructing any international security system on a sound economic and social basis.

Purposes

Committee discussion commenced on the basis of the amendment to paragraph 1 of Section A, proposed by the four sponsoring Powers, to the effect that friendly relations among nations must be based on "*respect for the principle of equal rights and self-determination of peoples*" and that respect for human rights and fundamental freedoms should be promoted "*for all without distinction as to race, language, religion, or sex.*" While there was general agreement that the sponsoring Powers' amendment was a considerable improvement over the original text, it was equally the general opinion, in which New Zealand fully concurred, that the scope of the Council's interests and responsibilities should be still further broadened in accordance with the proposals submitted by many delegations.

The New Zealand delegation was primarily concerned with supporting and pressing for the adoption of three points incorporated in amendments presented by Australia, namely:—

(1) That the Organization should "*promote*" the achievement of *all* its objectives, including solutions of international economic, social, and other humanitarian problems which the original text proposed should be merely "facilitated."

(2) That the Organization should promote "observance of," as well as "respect for," human rights and fundamental freedoms, &c.

(3) That members of the United Nations should pledge themselves to take action, both national and international, for the purpose of securing for all peoples, including their own, improved labour standards, economic advancement, social security, and employment for all who seek it.

In addition, the proposal to indicate more precisely the Council's enlarged scope and functions by listing as a specific purpose of the Organization the promotion of international cultural and educational co-operation and the solution of health problems, was actively supported.

Preliminary discussion having revealed a large area of agreement on the substance of most of the points made in the proposals relating to "Purposes" as presented by various countries, the New Zealand delegate suggested, and the Committee agreed, that these proposals should be referred to a sub-committee for preparation of a consolidated draft. Subsequently it was decided that the sub-committee should be empowered, in accordance with this procedure, to redraft the whole of Chapter IX, each member of the full Committee retaining the right to press for changes in the consolidated redraft. The first report, comprising a redraft of paragraph 1 of Section A, presented by the sub-committee read as follows:—

"With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the Organization shall promote:

(*a*) Higher standards of living, high and stable levels of employment and conditions of economic and social progress and development;

(*b*) Solutions of international, economic, social, cultural, health, and other related problems: and

(*c*) Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, language, religion, or sex."

The report stated that the phrase "high and stable levels of employment" in subparagraph (*b*) had been accepted in preference to the phrase "full employment" by a vote of six to five.

On presentation to the full Committee it was promptly moved by the New Zealand delegate that the phrase "full employment" be adopted. The New Zealand motion brought strong support from Australia, the Netherlands, Ukraine, Belgium, Yugoslavia, Mexico, U.S.S.R., and France, and on being put to the vote was carried without dissent—indeed, with evident enthusiasm. At a later meeting, however, the United States delegate asked the Committee to reconsider the statement of purposes already approved and to adopt instead an alternative draft involving a rewording of subparagraphs (*a*) and (*b*) as follows:—

(*a*) Solutions of international economic, social, health, and other related problems, including those relating to the attainment of higher standards of living, full employment, and conditions of economic and racial progress and development.

(*b*) Cultural and educational co-operation.

The United States, while not objecting to the use of the phrase "full employment," argued that the context in which it appeared was capable of being misinterpreted as obligating the international organization to interfere in the domestic affairs of member States. One of the main purposes of the suggested change was to dispel fears which might arise when the Charter came up for Congressional ratification.

Although it appeared reluctant to reopen a matter on which a unanimous decision had been reached, the Committee, on the motion of the New Zealand delegate, finally agreed to do so, out of courtesy to the United States. In the further debate which followed New Zealand joined with Australia in a strenuous defence of retention of the text as agreed to with "full employment" stated as a specific purpose towards the promotion of which member nations pledge themselves to take all possible action internationally as well as nationally. In this they had the full support, among others, of France, Belgium, India, the U.S.S.R., and the United Kingdom. The New Zealand delegate stated further that the Economic and Social Council could only succeed if it had the co-operation of Governments: they must agree to co-operate fully, freely, and voluntarily in achieving the purposes set out. "Twice in our life-time millions of young men had been given the right to die. Were we now going to deny them the right to live?" he asked. For the average man and his family the right to live depended on the right to work. It was therefore the responsibility of Governments represented at San Francisco not merely to promise full employment, but to pledge themselves to ensure its being made a reality, since, without full employment, fundamental human freedoms were without value or meaning.

After a vigorous discussion, in which the great majority of those taking part came out strongly in favour of an explicit reference to the promotion of full employment, the United States withdrew its alternative proposal, subject to the Committee's agreeing that nothing contained in Chapter IX of the Charter could be construed as giving authority to the Organization to intervene in the domestic affairs of member States.

The United States proposal to include a specific reference to "educational co-operation" as a purpose of the Organization was warmly supported. The view of the New Zealand delegation, which seemed to be generally shared, was that education in itself represents such an important field of international co-operation as to warrant separate and special mention in the Charter. The appropriate paragraph was accordingly referred back to the sub-committee

for redrafting, and was eventually adopted unanimously in the following form:—

(*b*) Solutions of international economic, social, health, and other related problems; international cultural and educational co-operation; and

Thus the statement of purposes as approved up to this stage substantially embodied the principles contained in those Australian amendments to which New Zealand also attached particular importance. Yet the statement still lacked the pledge which constituted an essential part of the Australian amendment and which the New Zealand delegation was anxious to see included in the Charter for the purpose of reinforcing its economic and social provisions, particularly with reference to the promotion of full employment. This omission, however, was rectified in a later report of the drafting sub-committee, which recommended that the following new paragraph be added after paragraph 1.

"All members pledge themselves to take separate and joint action and to co-operate with the Organization and with each other to achieve these purposes."

The Committee voted without dissent to accept the paragraph in principle subject to final drafting, the United States delegation reserving its position. In its next report the Committee recommended that the paragraph should be redrafted to read as follows:—

"All members undertake to co-operate jointly and severally with the Organization for the achievement of these purposes."

The Chairman's ruling that this redraft was in accordance with the paragraph originally approved was strongly protested by the Australian and New Zealand delegates, who argued that the sub-committee had exceeded its authority by altering the substance of the pledges. The first draft, it was pointed out, contained both a pledge to co-operate and a pledge to take separate action. The revised draft omitted the latter, which, from the Australian and New Zealand viewpoint, was of crucial importance, since an earnest of any nation's sincerity and determination in seeking to achieve the objectives set out must be its readiness to do its utmost to achieve those objectives within its own country. An opposing view, however, was presented by the United States, who claimed that a pledge to take separate action might be construed as authorizing the Organization to intervene in domestic affairs. The safeguarding clause in Chapter II, moreover, would not be sufficient, since a pledge of this type would make internal affairs matters of international concern. The United States was eager to co-operate and to pursue policies consistent with international well-being, but such obligations, it was maintained, could not be imposed effectively from without.

The New Zealand delegate, while stating that in New Zealand the pledges as first worded would not create difficulties or be construed as implying interference with domestic affairs, recognized, nevertheless, the possibility of misinterpretation in the United States and perhaps elsewhere. In the circumstances he urged that the Committee should not close the door to reconsideration of a matter of such importance that unanimity was essential. He accordingly seconded a Soviet motion to refer the whole matter back to the drafting Committee with full powers to draft a pledge satisfactory to all.

The drafting Committee reached agreement on the following recommendation, which was accepted by the Committee without further debate and with only one member dissenting:—

"All members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of these purposes."

Two further points with reference to the statement of purposes should be mentioned. First, it was agreed that the language of sub-paragraph (*b*) includes international co-operation in the suppression

of traffic in, and abuse of, opium and other narcotics and dangerous drugs; and, second, that the "economic" field is similarly comprehensive and includes, for instance, international trade, finance, and communications and transport.

Relationship with other Organizations

This part of the Committee's work consisted in determining (*a*) the relations between the General Assembly and the Economic and Social Council on the one hand, and (*b*) the relations between the Organization and other public and private international bodies on the other. No particular problems arose under (*a*), the statement contained in the Dumbarton Oaks draft (in the second sentence of paragraph 1 of Section A) being accepted with only minor textual changes. The only question considered was whether Section A should include some reference to co-operation between the Economic and Social Council and the Security Council. It was finally decided, however, that the provision made in Section D under which the Economic and Social Council is specifically empowered to furnish information to the Security Council and to assist the latter upon its request was adequate in this respect.

Under (*b*)—relations with other public and private international bodies—a number of controversial issues were encountered. These, in the main, centred round three proposals. The first, sponsored by the United Kingdom and strongly supported by New Zealand, involved special mention in the Charter of the I.L.O. as one of the specialized agencies to be brought into relationship with the Organization; the second, sponsored by France and, in the form presented, opposed by New Zealand, involved a similar reference to an organization for "insuring access, on equal terms, to trade, raw materials, and to capital goods" as one of the new specialized inter-governmental agencies, the creation of which the Economic and Social Council would be empowered to initiate; the third, sponsored primarily by New Zealand and the U.S.S.R., involved the admission as observers, to the San Francisco sessions of the Economic and Social Committee, of representatives of non-governmental bodies (including particularly the World Trade Union Congress) whose advice and experience might be of value. Associated with this last issue was the question of whether special provision should be made in the Charter for consultation with non-governmental organizations—either national or international—concerned with matters within the Council's competence.

In supporting the United Kingdom amendment for special mention of the I.L.O., the New Zealand delegate stressed the importance of the I.L.O.'s being acknowledged as one of the instruments of the Economic and Social Council through which should be pursued the object of securing for all improved labour standards, economic advancement, and social security. There was every justification, he contended, for making some distinction between the I.L.O. and other specialized inter-governmental agencies recently established or in contemplation, since the I.L.O. has already proved itself—it is a "going concern" with a most worthy record of achievement. Moreover, it is an organization to which the great majority of the United Nations have belonged since its inception. In these circumstances the I.L.O. could not lightly be ignored in any arrangements that might be made for future international co-operation in the economic and social field. Indeed, were it to be cast aside, the necessity would immediately arise of creating an almost identical organization to take its place. The Committee was therefore urged to consider most carefully the possibility of finding a proper place in the Charter for the I.L.O. and at least to agree unanimously on the principle of recognizing it as an organ of the United Nations with respect to industrial and labour matters. The United Kingdom and New Zealand arguments were warmly supported by many delegations, including those of Australia, France, Belgium, and Canada.

Opposition to any specific reference to the I.L.O. in the Charter came mainly from the U.S.S.R. (who is not a member) and the U.S.A., who, while fully in accord with the suggestion that the I.L.O. should be one of the specialized agencies to be brought into relationship with the new organization, nevertheless argued against its being mentioned in the Charter on the grounds that this would involve discrimination against other specialized organizations which were not so mentioned.

After a lengthy debate, in which most of the speakers affirmed their support of the I.L.O. and of its claim to special recognition, the Committee agreed, on the New Zealand delegate's suggestion, to defer any decision on the United Kingdom amendment pending further consultation between the sponsoring Powers. The United Kingdom member, however, subsequently informed the Committee of this delegation's decision to withdraw its amendment in view of the considerable difference of opinion which the discussions had disclosed, the difficulties of some delegations in accepting the proposals, and the desire not to impair the harmony that had prevailed up to this point. He requested, however, that the Rapporteur's report should make it clear, that while it was considered inappropriate to single out any one organization for mention in the Charter, there was widespread recognition that the I.L.O. will be one of those to be brought into relationship with the Organization, and that in this connection the Committee warmly welcomed the statement made by the Chairman of the Governing Body, who was present as an observer, that it will be necessary to alter the Constitution of the I.L.O. in order to provide the necessary links with the United Nations. The incorporation of such a statement in the draft was agreed to unanimously, with the U.S.S.R. reserving its position. In view of this reservation and the desire to present a unanimous report, the United Kingdom delegate stated, at the final meeting, that he would acquiesce with regret in the omission of any reference to the I.L.O., and the Committee voted accordingly, with several delegations, including New Zealand, dissenting. There can be little doubt, nevertheless, having regard to the views expressed in the course of Committee discussions of the I.L.O.'s being assured of an important and responsible place within the framework of the new world Organization.

The French proposal concerning access to trade, raw materials, and capital goods was presented in the form of an amendment to the following new paragraph which the sub-committee recommended should be added to Section A of the Dumbarton Oaks text:—

> "The Organization shall, where appropriate, initiate negotiations among the nations concerned for the creation of any specialized organizations or agency required for the accomplishment of the purposes set out above."

The amendment gave rise to a lengthy debate, in the course of which the New Zealand delegate supported the principle of equal access to raw materials, but raised doubts as to the implications of the principle of equal access to trade. He inquired particularly as to whether acceptance of this principle would not involve abandonment of tariffs, exchange, and import controls, abrogation of trade agreements—in short, a return to laissez-faire. While he was in favour of these problems being investigated with the object of working out policies calculated to promote an expansion of international commerce, he was opposed to making a blanket commitment that might seriously add to the difficulties of attaining the very purposes for which the Organization was being established—especially that of securing full employment and economic advancement in the member countries. The amendment, however, was finally withdrawn after a majority of the Committee had endorsed the view that it would be misleading to mention in the Charter one or two important

fields in which specialized organizations would function, and not to mention others, or to specify in the Charter the precise nature of the problems involved in this connection.

The first contentious issue to come before Committee II/3 was a Canadian proposal to invite representatives of specialized international bodies, including the I.L.O., the Interim Commission on Food and Agriculture, the Economic and Financial Section of the League, and UNRRA, to attend meetings of the Committee in a consultative capacity. Invitations to send representatives to San Francisco had, in fact, already been sent to these inter-governmental bodies by the United States Government, acting on behalf of the sponsoring Powers. The queston became very prominent as the result of a Russian request, made first in the Steering Committee and rejected by that Committee, that a similar invitation be extended to the World Trade Union Congress, the inaugural meeting of which was in progress in Oakland (Cal.) during the early part of the Security Conference. In the absence of a firm recommendation from the Steering Committee, the question of admitting to the Committee meetings representatives of governmental and non-governmental bodies was taken up by the Economic and Social Committee as the technical Committee most intimately concerned with matters within the general competence of these specialized organizations. While there was no strong objection to admitting observers from inter-governmental bodies, opinion was sharply divided with reference to the World Trade Union Congress. In supporting the Soviet proposal the New Zealand delegate made it clear that he was in no way reflecting on the I.L.O., whose position he believed would be strengthened rather than weakened if the full weight and influence of world labour opinion, an important section of which, notably the Soviet Trade Unions and the American Congress of Industrial Organizations (C.I.O.), were not at present represented in the I.L.O., were mobilized in support of the purposes and objectives of the new Organization. The New Zealand view was that the Committee should consider itself free to invite representation of *any* organization—national or international (as one example, the International Chamber of Commerce, whose special interest or experience in economic and social problems might conceivably be of help)—to attend its sessions in a strictly consultative capacity. This view was eventually accepted by the Committee, and the Chairman was authorized to send an invitation to the World Trade Union Congress (the only such organization which had made formal application) as well as to representatives of the inter-governmental organizations listed above. The Committee's decision with respect to the World Trade Union Congress, however, was subsequently over-ruled by the Steering Committee.

With a view to ensuring that there should be the fullest consultation and co-operation between the Economic and Social Council, when established, and such non-governmental organizations as the World Trade Union Congress, the International Chamber of Commerce, the Co-operative Movement and Farmers' Organizations, as well as the I.L.O. and other inter-governmental organizations, the New Zealand Delegation tabled an amendment to Section D of the Dumbarton Oaks text in the form of an additional paragraph, as follows:—

> "World organizations concerned with industry, agriculture, labour, and other subjects within the competence of the Economic and Social Council, including the International Labour Organization, and such specialized organizations or agencies as may be brought into relationship with the Organization, shall be represented, where appropriate, on the subordinate bodies which the Economic and Social Council may set up."

Though the amendment was not adopted in this precise form, its substance was incorporated in a new paragraph, recommended by the drafting sub-committee and accepted with only two dissentients

by the full Committee, in which it is provided that "the Economic and Social Council shall be authorized to make suitable arrangements for consultation with non-governmental organizations concerned with matters within the competence of the Council. Such arrangements may apply both to international organizations and, where appropriate, to national organizations after consultation with the member State concerned."

With reference to relations between the Economic and Social Council and inter-governmental organizations, two points are stressed in the Committee's report. First, the reference in Section B of Chapter IX of the Charter to "specialized inter-governmental organizations and agencies having wide international responsibilities in economic, social, and other related fields," is not intended to preclude the Council from negotiating at its discretion subject to the approval of the General Assembly, agreements bringing either type of inter-governmental agencies into relationship with the Organization. Second, it was understood that the provisions for agreement between the Organization and any specialized agency were not intended in any way to deprive the latter of its responsibilities in its own field as defined in its basic instrument. The purpose of Section B is to provide for agreements sufficiently flexible to enable satisfactory arrangements to be worked out on the basis of need and experience.

Powers and Functions

Virtually all the amendments to Section C of Chapter IV of the Dumbarton Oaks draft which the various delegations presented at San Francisco were in the direction of enlarging the proposed powers and functions of the Economic and Social Council. Most of them were accepted with relatively little opposition or dissent and were incorporated in principle in a consolidated redraft of this section, the net effect of which is to give the Council a considerably increased status and responsibility beyond that originally contemplated. The New Zealand delegation submitted no specific amendments of its own, but lent its full support to a number of proposals for improvement of the section, particularly those advanced by Australia and Canada. Special importance was attached by the New Zealand delegate to Australian proposals relating to the preparation of draft conventions, the calling of international conferences, and the making and following up of recommendations.

Organization and Procedure

Discussion centred mainly around two points:—

(1) Eligibility for election to membership;
(2) Rotation of membership (staggering of terms).

Several amendments were submitted for the purpose of ensuring adequate representation for industrially important countries on the Economic and Social Council. The New Zealand delegate, however, urged that no restrictions should be placed on eligibility for membership; that, instead, the Council should be organized on a thoroughly democratic basis. He pointed out also that many small countries which might not rank as industrially important have by their past performance shown their capacity to contribute richly to social and economic progress. It was generally recognized that the Great Powers would automatically be elected to the Council if only because their membership would increase the certainty of the Council's recommendations being carried out. In the end the Committee endorsed the principle of equality so far as representation on the Council is concerned, amendments which would have required the choice of industrially important powers for Council membership being withdrawn. The discussion, however, resulted in two amendments to this section of the Dumbarton Oaks text—firstly, it was

agreed that provision should be made for rotation of members; and, secondly, that members of the Council should be eligible for re-election.

The only amendment to this section formally presented by New Zealand was one involving the insertion of the following words at the beginning of Section B of Chapter IX of the Dumbarton Oaks text dealing with Composition and Voting.

> "Unless the General Assembly otherwise decides the following provisions will be in force."

In support of this proposal it was urged that the Assembly should be left a maximum of freedom to decide on these essential procedural matters itself without the necessity of having to go through the very slow and difficult business of amending the Charter.

It was suggested that circumstances in a few years' time might call for change in the size or composition of the Council, and that no important principle would be vitiated if the Assembly were permitted to exercise its good judgment and discretion to make such changes as it saw fit with reference to these organizational and procedural arrangements. The New Zealand proposal did not receive strong support, and in the light of the experience which similar amendments had met with in other Committees the matter was not pressed to a vote.

The Committee recommended that the Economic and Social Council should set up commissions in the fields of economic and social activities and for the promotion of human rights, and such other commissions as may be required in fields within the competence of the Council. It considered the desirability of requiring the Council to set up commissions in the cultural, educational, and health fields, as well as regional commissions or sub-commissions, but it was agreed that it would be unwise or premature to make the establishment of such commissions mandatory, since in certain cases their functions might more appropriately be performed by specialized organizations brought into relationship with the Organization. Should experience subsequently indicate that commissions of the Council in these or other fields would be desirable, the language adopted permits the Council to establish such commissions.

The Committee also decided that the Dumbarton Oaks provision that the commissions set up by the Council should consist of experts be deleted. It was generally felt that it would be undesirable to limit the Council's field of choice.

There was a long debate on various amendments, pressed vigorously by Latin-American delegates, under which provision would be made in the Charter for the participation without vote in the Council's deliberations of States without membership in the Council if any matter of particular concern to such States should be under discussion. The New Zealand delegation approved these amendments in principle in the belief that no State should be denied at least an opportunity to be heard, if it so desired. Finally a compromise was agreed upon in the following terms:—

> "The Economic and Social Council shall invite any member of the Organization to participate without vote in its deliberations on any matter of particular concern to that member."

In the course of the Committee's discussions a number of statements and declarations of national delegations relating to specific problems of post-war international co-operation were discussed. These declarations have called attention to the urgency of concerting international action to organize or reconstitute specialized international organizations in specific fields, or to take action in meeting specific problems of post-war reconstruction. These proposed fields of international co-operation included intellectual co-operation, health, the traffic in dangerous drugs, migration, the status of women, and the problems of reconstruction.

The importance of the work accomplished at San Francisco by the Economic and Social Committee was well summed up by the Rapporteur, who concluded his report with the following remarks:—

"I believe that international co-operation in any of the many fields of human concern brought within the purview of the Social and Economic Council will be—to the extent that it is successful—of practical significance in itself in improving the conditions of human existence. But it will do more. It will contribute to the attainment of peace in this world by substituting the method of joint action for unilateral action, and by progressively shifting the emphasis of international co-operation to the achievement of positive ends in lieu of the negative purpose of preventing the outbreak of war by way of organized security measures.

"In seeking to co-ordinate these efforts and in promoting the effectiveness of these various forms of international co-operation in the economic, social, health, cultural, and other related fields, the Economic and Social Council, under the authority of the General Assembly of the world Organization, may indeed be expected to become the principal instrument 'for the organization of peace.'"

COMMISSION II COMMITTEE 4

INTERNATIONAL TRUSTEESHIP

NEW ZEALAND REPRESENTATIVES

Delegate RT. HON. P. FRASER

Alternate MR. A. D. McINTOSH

THE AGREEMENT reached at San Francisco on international trusteeship was not only one of the most important achievements of the United Nations Conference, but it also represented a notable advance in international thought on the administration of dependent peoples. This subject has been one of particular interest to New Zealand, whose Government, together with that of the Commonwealth of Australia, had already agreed at Canberra in January, 1944, and at the Wellington Conference in November, 1944, that the doctrine of trusteeship should be applicable in broad principle to all colonial territories, and that the main purpose of the trust should be the welfare of the native peoples and their economic, social, and political development.

It was therefore the objective of both the Australian and the New Zealand delegations at the Conference that these principles should be embodied in any trusteeship chapter of the Charter upon which the United Nations might agree. New Zealand, like Australia, had a further direct interest in this matter as a Mandatory Power under the League of Nations.

It was considered a compliment to New Zealand that the Chairman of the New Zealand delegation, the Rt. Hon. P. Fraser, should have been nominated by the United Nations Conference to be the presiding officer of Committee 4 of Commission II, which was charged with the responsibility of preparing the draft recommendations on trusteeship. Unlike every other Committee of the Conference, that on Trusteeship found no draft provisions covering the scope of its work in the Dumbarton Oaks proposals. Trusteeship was not discussed at Dumbarton Oaks.

The terms of reference on Trusteeship adopted by the Conference laid it down as the function of the Committee "To prepare and recommend to Commission II, and to Commission III as necessary, draft provisions on the principles and mechanism of a system of international trusteeship for such dependent territories as may, by subsequent agreement, be placed thereunder."

Since no joint proposals on Trusteeship had been put forward by the sponsoring Powers the Committee was confronted with the various papers put forward by the Governments of the United

Kingdom, the United States of America, Australia, France, and China. While all these separate proposals contained some points of agreement, there were also numbers of fundamental points of conflict, and the task of coming to some kind of working arrangement for dealing with so much diverse material was one of no small complexity.

After a thorough analysis of all these proposals it was clear that the most practicable arrangement would be a working paper embodying the common area of agreement. At the Chairman's request, Commander Stassen, chief United States delegate on Committee II/4, was charged with the difficult and onerous task of preparing such a document. This he accomplished with conspicuous ability, and the success of the Committee's deliberations owes much to his unremitting labours and rare skill as a patient and able negotiator.

The working paper eventually produced was based largely on the United States and United Kingdom proposals, and it embodied suggestions put forward by Australia, China, France, and the Soviet Union, together with suggestions put forward by other delegations. The Australian proposals, which ranked in importance and comprehensive scope with those of the United States and United Kingdom, contained, however, certain radical differences of principle, particularly the provisions relating to compulsory reporting by all colonial Powers, and called for special treatment. It was therefore found necessary to embody these in an additional section relating chiefly to the means by which the general principles concerning the particular welfare of dependent peoples might be carried into effect.

Though the New Zealand delegation put forward no specific proposals of its own, in view of the position which its principal delegate occupied as Chairman of the Trusteeship Committee, nevertheless it was made clear to the Conference that there was the closest identity of views between the Australian and New Zealand Governments on this matter, and it was also explained later that the Australian proposals embodied in general the views of New Zealand also.

Owing to the nature of its subject-matter and the necessity for reconciling conflicting views, much of the work of this Committee was carried out by the Governments administering colonial territories and others specially concerned either by direct negotiation or through their representatives in San Francisco. This procedure led to protracted negotiations outside the Committee largely under the direction of the United States delegate (Commander Stassen), and consequently led to delays in holding Committee meetings. It is worth recording that this particular Committee met only sixteen times and the Drafting Committee four times. When its sessions, in the latter stages of the Conference, were convened, they were generally for the purpose of receiving and discussing the reports of Commander Stassen, who acted as the delegate in charge of the proposals contained in the working paper.

After an analysis by the Chairman of the principal points of agreement and disagreement in the various proposals put forward, the Committee embarked upon a general discussion of the whole question, which was most valuable and informative. The principal delegations speaking were Australia, Philippines, France, Netherlands, China, Union of South Africa, United Kingdom, the Soviet Union, Mexico, Ethiopia, Iraq, and Egypt.

It had been necessary for the Chairman to rule at the outset that as the object of the Committee was to establish machinery on the agreement of the principles of the trusteeship system, no reference should be made to specific territories except by way of illustration. This rule was strictly adhered to, and it resulted in avoiding unhelpful discussion on current topics of troublesome controversy.

The texts of the working paper were grouped into two sections—the first, Section A, covered the Declaration, and the second, on the International Trusteeship System, was known as Section B.

The Declaration finally agreed upon applied to territories not fully self-governing and was the result of earnest and protracted debate. Though based on the principles embodied in paragraph 1 of Article 22 of the Covenant of the League of Nations, the Committee felt that the Declaration should be couched in language more suitable to existing conditions than that contained in the well-known phrase "colonies and territories which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world."

There was very lengthy discussion of the objectives to be sought in the political development of the territories concerned and general agreement that self-government was a goal for such development. Some delegates desired, in addition, to include independence as an alternative goal, "independence or self-government." It was said that independence was an aim of many dependent peoples and that its attainment should not be excluded by the terms of the Charter. On the other hand, it was urged that since the Declaration applied to all dependent territories and not merely to those placed under trusteeship, the reference to independence should more properly be made in the section on Trusteeship. A motion by the Chinese delegation proposing the insertion of a reference to independence as an alternative goal was withdrawn on the understanding that independence would be included among the objectives of the trusteeship system set forth in Section B of the working paper.

The main points contained in the Declaration as finally approved were as follows:—

The members of the United Nations which have responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize that the interests of the peoples of these territories are paramount and accept as a sacred trust the obligation to promote to the utmost the well-being of the inhabitants of such territories within the system of international peace and security, and to insure the political, economic, social, and educational advancement of these peoples, with due respect for their culture; to develop self-government, to take due account of their political aspirations, and to assist the progressive development of their free political institutions to further international peace and security; to promote constructive measures to realize these purposes. A new provision to which New Zealand and Australia attached the utmost importance was the recognition in the Declaration of the need for collaboration among the colonial Powers and for the pooling of information. This was embodied in an undertaking by signatory Powers to transmit to the Secretary-General of the United Nations regular statistical and other information on economic, social, and educational development conditions in their territories.

The Declaration also contained the agreement of colonial Powers to base their policies in these territories on the general principle of good neighbourliness with due respect to the interests and well-being of other members of the world community.

The principles of international trusteeship and the machinery provisions of the international trusteeship system were covered in Section B of the Committee's report.

The Committee recommended that the basic objectives of the trusteeship system should be to further international peace and security, to promote political, economic, social, and educational advancement of the inhabitants of the trust territories and their development toward self-government or independence as may be appropriate, to encourage respect for human rights and fundamental freedoms for all, and to insure equality of treatment in social, economic, and commercial spheres for all members of the United Nations and their nationals.

It was agreed that territories in the following categories might be placed under the system of international trusteeship by subsequent individual agreements, namely:—

(1) Territories now under mandate;

(2) Territories which may be detached from enemy states as a result of the present world war; and

(3) Territories voluntarily placed under the system by States responsible for their administration.

Under the provisions of the Charter it will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the Trusteeship System and upon what terms. It should be noted that territories generally known as colonies are not included unless the colonial Powers individually desire that they should be, though all nations with dependent territories accept the general policy provisions as set out in the Declaration.

It is further provided that, in the case of each territory brought under the system, a trusteeship agreement will contain the terms under which the territory will be administered and will designate the administering authority, which may be one or more States, or the United Nations Organization itself. In the case of territories now held under mandate the Mandatory Power will be a party to the agreement.

For areas other than strategic the General Assembly is to be the authority approving the terms of the Trusteeship Agreement. In respect of strategic areas in trust territories, all the functions of the United Nations, including the approval of the trusteeship agreements, will be vested in the Security Council, whereas the responsibility of the United Nations in regard to trusteeship in areas other than strategic will be entrusted to the General Assembly.

Provision is also made in Chapter XIII of the Charter for a Trusteeship Council to assist the General Assembly, and it is further provided that the Security Council will avail itself of the services of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas. The Trusteeship Council will be composed of specially qualified representatives designated one each by States administering trust territories, one each by the permanent members of the Security Council not administering trust territories, and one each by as many other States named by the General Assembly as will bring the total number of representatives to the point where it is equally divided between administering and non-administering States. New Zealand, as a Mandatory Power, will thus be guaranteed a permanent seat on the proposed Trusteeship Council.

The General Assembly, and, under its authority, the Trusteeship Council, will have the power to consider reports from the administering authorities, to accept petitions, to provide for periodic visits to the territories, and to take other action in conformity with the trusteeship agreements. The explicit provision in the Charter which recognizes the inherent right of dependent peoples to petition the new organization in the event of injustice has been hailed as one of the most important provisions of the Chapter. The administering authorities for areas other than strategic will be required to make an annual report to the General Assembly on the basis of a questionnaire formulated by the Trusteeship Council.

The Committee recommended the adoption of a conservatory clause which guarantees that, except as may be agreed upon in individual trusteeship agreements, nothing in the Charter shall alter in any manner any rights whatsoever of any States or any peoples or the terms of existing international instruments to which member States may respectively be parties.

The delegates who contributed to the deliberations of the Trusteeship Committee were deeply conscious of the responsibilities towards the future of hundreds of millions of people throughout the world. It was undoubtedly the earnest wish of those who signed the Charter that these wise and enlightened rules should be adopted and acted upon by all peoples and Governments concerned. As Commander Stassen stated in the Commission which approved the report of the Committee:—

> "This document can open the door to millions of people; it can mark out a path. But only the helping hand of the peoples of the world, particularly those in the more advanced and privileged nations, only the constant and continuous, alert, intelligent, humanitarian attention of the peoples of the world can make it live, can make it mean progress and the progressive development of the freedoms and the rights of these peoples. It is based upon the dignity of man, wherever he may be found, whatever his colour, or race, or creed. It has within it so much of what was envisioned by that great humanitarian, Franklin Delano Roosevelt. It has in its background so much of what has been discussed in Parliaments and in gatherings throughout the world, and what has been present in the hopes and the hearts of men.
>
> "But let us not think that when to-night we adopt this document we have solved a problem. We will have indicated in a tremendously encouraging way the manner in which the nations of the world can meet and reach agreement through very frank consultations and deliberations, but it is only machinery. It is only principles on paper. The test will be, do we, the peoples of the world, give it the life that sincerity in our future action can give it, and in that way do we make it really mean something to those millions of men and women and children throughout the world who do not now have representatives seated at these distinguished council tables of the United Nations?"

The leader of the New Zealand delegation and Chairman of the Trusteeship Committee, speaking in the Commission, summed up the work of the Committee in these words:—

> "We did not—and by the very nature of our Conference we could not—prejudicially affect the rights of any peoples or any nations. They stand as they were before. What we have been endeavouring to do—and I think we have succeeded—is to point the way, although, as Commander Stassen pointed out, and I would underline, the important thing now is for the nations to take it. We have built the road. The important and essential thing is for all the nations who have mandated territories to take the road laid down for the mandated territories, and for all those who have other dependent territories, colonial territories, to do similarly by taking the road laid down for colonial territories.
>
> "It is something substantial that nations that have mandated territories express a willingness to frame this new means ot administering that trust or, at least, supervising, in the name of the world, the administration of that trust. It is something even more gratifying that great colonial nations or empires, like the United Kingdom, France, Belgium, and the Netherlands, are willing to adopt Section A, which is clearly interpreted as steps towards self-expression, self-determination, and self-government.
>
> "To us of the British Commonwealth it is very difficult to distinguish between self-government and independence, for to the self-governing sovereign States of the British Commonwealth, self-government is independence and independence is self-government. But we have also learned that there is something additional to independence and something more secure and lasting in our modern world, where phrases become out of date so rapidly and titles and names signifying something a few years ago become meaningless with such precipitation. We British peoples have learnt that, as well as being independent, we are interdependent, and that the future of the British Commonwealth depends upon our interdependence and co-operation. I go further: the future of the world depends upon our recognition of the interdependence of all nations, and upon the co-operation of one nation with another and with all nations. That recognition and the resulting task of building up and consolidating the unity of the nations is even greater than a nation realizing its own genius and wanting to break away from its existing association and claiming independence.

"Here, then, is the road for those who want self-government and self-determination, and it is a splendid thing that the nations have been so united on its building. We have built the road, or a very considerable part of it. The main point is, as Commander Stassen has put it in referring to the document, will the nations take it? Will we go forward on that road? That is the test of our sincerity. I believe we will."

COMMISSION III COMMITTEE 1

SECURITY COUNCIL STRUCTURE AND PROCEDURES

NEW ZEALAND REPRESENTATIVES

Delegates Rt. Hon. P. Fraser
Mr. C. A. Berendsen
Alternate Mr. J. V. Wilson

On the composition of the Security Council a prolonged discussion took place. Recognizing that membership of the Security Council places a Member State in a most privileged position, since only six seats were to be provided for the forty-five present members, other than the Great Powers, the Committee discussed at length how the seats on the Council could be most equitably and usefully distributed. It was pointed out in this connection that there was in fact a vast difference not only between the Great Powers and other Powers, but between the other Powers amongst themselves. Some were of such size or economic and military importance as almost to rank with the Great Powers; others had shown by their efforts in the past and their sacrifics that they could confidently be relied upon to co-operate to the fullest extent in any measures taken by the World Organization, while there was a third differentiation relating particularly to those Powers who, by geographical situation, were clearly separated from, and whose interests could not be adequately represented by, members in different geographical areas.

The first and obvious means of further spreading the membership of the Security Council was to increase the number of non-permanent members, and many amendments to that end were presented. This proposal was resisted by the Great Powers on the ground that the larger the body the less effective it would prove to be in operation, but there was a strong trend of opinion among the American Republics in particular, that the total membership of the Security Council should be substantially increased in various degrees up to a maximum of fifteen. These proposals were somewhat surprisingly and unanimously abandoned overnight, and the Dumbarton Oaks proposal for a Council of eleven, with six non-permanent members, was unanimously approved.

A proposal introduced by the Four Powers stipulating that due regard should be specially paid in the first instance to the contribution of members of the Organization towards the maintenance of international peace and security and towards the other purposes of the Organization, and also to equitable geographical distribution, was passed unanimously. It was generally agreed that this offered the best prospects of a solution to an admittedly difficult problem, but there remained much doubt as to how this would operate in actual practice. Where only six seats are available there is, it is clear, little room to allow of adequate representation for those States who have played and are likely to continue to play their full part in the enforcement of the objects of the Organization, and also to allow for geographical distribution. From another point of view, while these criteria have been laid down and generally accepted

by the members, there may be room for some doubt as to how far the criteria will indeed be followed when the elections take place. Every member is likely to feel the necessity of itself representing a geographical area on the Council and every member is likely to hold, if not to express, the view that its contribution to the maintenance of international peace, past and future, is worthy of special consideration.

One obvious and important amendment was passed with acclamation—namely, the removal of the words "in due course" attached to the acceptance of France as a permanent member, and her full acceptance as one of the Great Powers.

A small New Zealand amendment was proposed to Section A. This was to join together two provisions with reference to the election of non-permanent members of the Security Council—namely, that the six States in question should be elected for a term of two years, three retiring each year, and that they should not be eligible for re-election—for the purpose of prefacing both these provisions with the words "unless the Assembly otherwise decides." It was felt by the New Zealand delegation that these two provisions were unnecessarily rigid. It might be found in the course of time that a term other than two years would be desirable, and it might also be found useful in the course of time to allow certain non-permanent members to be eligible for re-election forthwith. It was pointed out by the New Zealand representatives that if the Assembly did desire to take either of these courses it had no alternative, if the provisions were written into the Charter as proposed, but to embark upon an amendment to the Charter, and that this—involving as it did the veto of the Great Powers and a lengthy and cumbersome procedure—was an unnecessary restriction on the free decision of the Assembly on a matter which should be left to its own discretion. This proposal met with no support and was summarily defeated.

But the principal—indeed, after a time the sole topic under discussion in Committee III/1—was the voting-power of the Security Council, especially the vexed question of the veto power of each permanent member. It will be remembered that the section concerning voting on the Security Council had not been agreed upon at Dumbarton Oaks, and the proposals under discussion in San Francisco was the result of conversations between President Roosevelt, Mr. Churchill, and M. Stalin at Yalta. Briefly, these provided that on procedural matters decisions of the Security Council should be made by an affirmative vote of any seven members, but that on all other matters decisions should be made by an affirmative vote of seven members, *including the concurring vote of the Permanent Members.* There was one exception, and one only, to the necessity of the concurring votes of the Permanent Members, and that was that under the provisions of the Charter dealing with peaceful settlement—as distinct from enforcement measures—a Permanent Member being party to a dispute should have no vote.

It was obvious from the beginning of the Conference that strong objection would be taken by many members to these provisions. At the initial plenary meetings the leader of the New Zealand delegation was the first to raise this point. He made it clear that New Zealand was firmly opposed to this proposal, and in the course of some heated discussions a considerable number of members took exception to the theory that any member, great or small, should have the right of veto either in connection with peaceful settlement or in connection with enforcement. A much larger group objected to the right of any one permanent member to veto steps proposed to be taken by the Security Council in respect of peaceful settlement, while a still larger group, including practically every delegation represented in San Francisco, desired clarification of the purposes and the intentions of the Four Powers who sponsored this provision.

At an early stage of the Committee discussions on this vital matter—on 17 May— Mr. Fraser expressed his uncertainty as to the actual effect of the Yalta provisions, particularly in view of conflicting interpretations and declarations made by various representatives of the Great Powers. "It may or may not," he said, "be possible to adjust some matters in regard to the veto, but at least explanations are due—full, clear, and detailed explanations—of how it is to work, so that we who are delegates can go back to our respective countries well and accurately informed because we are charged not only with the responsibility of voicing the opinions of our countries, but also of understanding what we are agreeing to or disagreeing with." He therefore asked for an authoritative clarification by the sponsoring Powers of the actual effect of the veto provision in regard to the application, step by step, of the procedures for peaceful settlement outlined in Chapter VIII, Section A, of the Dumbarton Oaks proposals.

The delegate of the United Kingdom, Sir Alexander Cadogan, gave at the same meeting, and subject to later correction, a provisional reply to the questions asked by Mr. Fraser. The reply suggested that it was not possible for the veto to be used to prevent investigation and discussion of a dispute by the Security Council, or the other steps in the procedure for peaceful settlement, up to the point of actual recommendation or decision, where the veto would apply. Unfortunately, the statement which was subsequently issued by the sponsoring Powers (and is referred to below) was less liberal. The request made by Mr. Fraser for further clarification met with wide support, and as a consequence the Australian delegation, as a member of the sub-committee set up to consider this matter, drafted a series of questions for interpretation, to which the Great Powers were invited to give an answer.

It became apparent at once that there was a large and definite divergence of opinion as to the effect of the Yalta provision, even among the Great Powers themselves, and for a period of several weeks nothing more was heard of this matter officially while the sponsoring Powers were discussing their own interpretations amongst themselves in San Francisco as well as in Washington, London, and Moscow. Though nothing was heard by the Conference during the course of these conversations, it became known through the press that a serious difference of opinion had occurred between Britain and America on the one side and the U.S.S.R. on the other, the Russians being understood to adhere strictly to its interpretation of the Yalta text, and thus attributing to each permanent member the veto power on every single question which was not clearly one of procedure. The British and American view was understood to be somewhat more liberal, based on what was understood by them to be the interpretation of that text at the time it was drafted.

The point actually at issue in this controversy, which was eagerly watched by the small Powers, was whether it would be within the power of any of the permanent members to prevent later the consideration and discussion of a dispute of a threatening situation referred to the Council by a small Power. It was generally felt by the small Powers that if, as is indeed the case, a duty is laid upon any member to refer any such situation or dispute to the Security Council, then it would be farcical were any one permanent member of the Council to be placed in a position to prevent the Council from even hearing the case presented to it.

After a considerable amount of discussion in the press (and none at all in the Conference), and after several weeks delay, the four sponsoring Powers (plus France) produced before Committee III/1, not an answer to the questions asked by the sub-committee, but a broad and general interpretation of what they unanimously agreed to be the effect of the Yalta provisions. It was stated in this document that—

"No individual member of the Council can alone prevent consideration and discussion by the Council of a dispute or situation brought to its attention under paragraph 2, Section A, Chapter VIII. Nor can parties to such dispute be prevented by these means from being heard by the Council. Likewise, the requirement for unanimity of the permanent members cannot prevent any member of the Council from reminding the members of the Organization of their general obligations assumed under the Charter as regards peaceful settlement of international disputes.

"Beyond this point, decisions and actions by the Security Council may well have major political consequences and may even initiate a chain of events which might, in the end, require the Council under its responsibilities to invoke measures of enforcement under Secton B, Chapter VIII. This chain of events begins when the Council decides to make an investigation, or determines that the time has come to call upon States to settle their differences, or makes recommendations to the parties. It is to such decisions and actions that unanimity of the permanent members applies. with the important proviso, referred to above, for abstention from voting by parties to a dispute."

It is not, perhaps, an exaggeration to say that this interpretation satisfied no one, not even the five Powers themselves. The other Powers, while recognizing the statement to be preferable to those interpretations according to which discussion at all stages would be at the mercy of the veto, were by no means prepared willingly to accept it as adequate. A test of strength on the matter was therefore inevitable.

Despite much negotiation behind the scenes, which was as characteristic a feature of this Conference as of any other, this test developed rapidly. In order to explain the strength of feeling which was manifested regarding the application of the veto the pacific settlement of disputes (Section A of Chapter VIII) it should be stated that the smaller Powers were generally in agreement that it was hopeless to dispute the decision of the Great Powers that in matters *of enforcement* (Section B of Chapter VIII) each should retain its veto, though it might be doubted whether there was any that agreed with the necessity of such a course or any who would have accepted it except under the most stringent protest were it not obvious that the alternative was no Charter at all. For their part the Great Powers explained with a great show of cogency that, after all, it was they who had won the war, it was they who had made the sacrifices, it was they who in the post-war period would dispose of the vast preponderance of the power necessary in the last resort to support the decisions of the Organization, and that only if the Great Powers, who had won the war, could retain their unity after the war would they be able to preserve the peace—that if there was any breach of unity among them the task of the Organization would be hopeless. They emphasized also that the veto which they asked for themselves was not a new thing, that even in the Covenant of the League they had possessed that veto. What they did not stress was the fact that in the Covenant of the League all Powers were on the same footing so far as the veto was concerned. This differentiation was an additional cause for objection. Under the Dumbarton Oaks proposals not only were the lesser Powers deprived of the veto, they were, unless fortunate enough to obtain one of the six non-permanent seats on the Security Council, deprived of all immediate voice and vote on every question of peace and war. This, in the opinion of most of the lesser Powers, was an intolerable position and one which they should not be asked to accept. (See also report on Committee III/3, below.)

But when considering the powers of the Security Council under Section A of Chapter VIII in connection with the *pacific settlement of disputes,* the smaller Powers found it difficult to understand why the Great Powers should insist upon a veto at any stage of the procedure. New Zealand and Australia took a large part in the discussion, and they certainly voiced the opinion of a great majority

of the smaller Powers when they expressed their surprise at the proposal. While all members of the Organization were, in terms of the Charter, "obligated" to refer to the Security Council every situation or dispute that is likely to lead to a breach of the peace, each permanent member of the Council reserved the right itself to decide whether in each case the Council could even investigate the dispute. There were also other steps in the procedure of pacific settlement to which the veto would apply. The statement that the veto might be used to prevent "investigation," without any indication where "consideration and discussion" ended and "investigation" began, was felt to be most unsatisfactory.

A further objection raised by the small Powers was that the five Powers mentioned in the Charter were to retain the right of veto indefinitely, and the Conference was invited to consider whether in actual fact the Great Powers might not change in the course of time, so that those who were at present included in that category in the Charter—which cannot be altered without the application of the veto—may cease to be great and that others may become great.

The really serious and fundamental divergencies of opinion on the whole matter were brought to a head by an Australian amendment, very ably introduced by the Australian Minister of External Affairs, Dr. H. V. Evatt, who was strongly supported by the leader of the New Zealand delegation. During the course of the debate a most curious situation developed. It was perfectly obvious that the veto in the form proposed was repugnant to the wishes of practically every member except the Great Powers and those who by policy or necessity made it a point always of supporting the Great Powers. But obviously many other small Powers had felt themselves unable to oppose the Great Powers, with the result that there were a very large number of abstentions when it came to voting. The Australian amendment, aimed at removing the veto from the activities of the Council in the peaceful settlement of disputes—*i.e.*, in the whole of Section A of Chapter VIII—while accepting it under protest in connection with enforcement activities, was defeated by 20 votes to 10, with 15 abstentions, and, as a matter of interest, the voting on the amendment taken by a formal roll call was as follows:—

Affirmative: Australia, Brazil, Chile, Colombia, Cuba, Iran, Mexico, Netherlands, New Zealand, Panama.

Negative: Byelorussia S.S.R., China, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, France, Honduras, Lebanon, Liberia, Nicaragua, Norway, Philippine Commonwealth, Ukranian S.S.R., Union of South Africa, U.S.S.R., United Kingdom, U.S.A., Uruguay, Yugoslavia.

Abstentions: Argentina, Belgium, Bolivia, Canada, Ethiopia, Greece, Guatemala, India, Iraq, Luxembourg, Peru, Saudi Arabia, Syria, Turkey, Venezuela.

Subsequently the actual text of the Dumbarton Oaks (Yalta) proposals taken on a similar roll call was approved by 30 votes to 2, with 15 abstentions, as follows:—

Affirmative: Brazil, Byelorussia, Canada, China, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ethiopia, France, Greece, Honduras, India, Iraq, Lebanon, Liberia, Luxembourg, Nicaragua, Norway, Philippine Commonwealth, Syria, Turkey, Ukranian S.S.R., Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, U.S.A., Uruguay, Venezuela, and Yugoslavia.

Negative: Colombia and Cuba.

Abstentions: Argentina, Australia, Belgium, Bolivia, Chile, Egypt, El Salvador, Guatemala, Iran, Mexico, Netherlands, New Zealand, Panama, Paraguay, and Peru.

It will be observed that Australia and New Zealand abstained from voting against the text, feeling that they had carried their protest as far as it was useful. Whatever the real views of all the Great Powers may have been on the question of the veto, it was clear that they were not prepared to accept the Charter if the Organization did

not give them the right on every occasion to say for themselves whether or not they should be committed. As it had thus become abundantly clear that the Charter could not be obtained without the veto in the form suggested, it was on the whole the wise and proper course at that stage not to vote against the veto and thereby possibly wreck the Charter, but to abstain from voting, making it plain to the Conference and the world the reasons for so doing.

One further point should be added: that some of the Powers that either voted for the Dumbarton Oaks text or refrained from voting would certainly have opposed this proposal had they not hoped it might still be possible in another Committee to remove the veto from the power of amendment. The question of the application of the veto on amendments was considered in Committee I/2, and, as is indicated in the report of the proceedings of that Committee, it unfortunately proved impossible to remove the veto on amendments even at the end of a specified period.

COMMISSION III COMMITTEE 2

SECURITY COUNCIL
PEACEFUL SETTLEMENT

NEW ZEALAND REPRESENTATIVES

MR. A. D. McINTOSH

MR. J. V. WILSON

MR. C. C. AIKMAN

THIS COMMITTEE was given the following functions:—

> "To prepare and recommend to Commission III draft provisions for the Charter of the United Nations relating to matters dealt with in Chapter VIII, Section A, of the Dumbarton Oaks proposals, and to the comments and suggestions relevant thereto submitted by the Governments participating in the Conference."

Chapter VIII, Section A, must be regarded as one of the key chapters of the Dumbarton Oaks proposals. In the first place, procedures for the pacific settlement of disputes, with which the Chapter deals, are an essential part of the frame-work of an Organization designed to ensure the maintenance of international peace and security. And it was the application of the Great Power veto at the various steps to be taken in the settlement of a dispute which was the crux of the debate on the voting procedure of the Security Council. Incidentally, this particular Chapter had the doubtful distinction of being regarded as one of the most poorly drafted sections of the Dumbarton Oaks proposals.

Committee III/2 confined itself almost entirely to a consideration of amendments presented by the four sponsoring Powers and by other delegations and having the object of clarifying some of the points of obscurity in the Chapter. The first five paragraphs of Chapter VIII, Section A, and the amendments proposed by the sponsoring Governments were approved and then referred to a drafting sub-committee (on which New Zealand was not represented). This sub-committee was also asked to incorporate in the final draft, so far as possible, interpretations of the Chapter given in the course of Committee discussions, and the general idea of such of the remaining amendments as were approved by the Committee.

The New Zealand delegation did not itself prepare any amendments to the Chapter, but supported amendments of other delegations which appeared to contribute to its clarity and effectiveness. There was therefore disappointment on the part of some delegations, which the New Zealand delegation shared, when the sub-committee recommended a draft of the Chapter which represented no substantial improvement on the original. Some improvements were made by the Co-ordination Committee, but were not enough to remove the possibility of future difficulty in the interpretation of the Chapter.

Many interpreters of the Dumbarton Oaks proposals argued that paragraph 5 of Chapter VIII, Section A, was wide enough to enable the Council to recommend terms of settlement in a dispute likely to endanger the maintenance of international peace. In order to clarify this position the four sponsoring Powers presented a revision of paragraph 4, reading as follows:—

> "If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. If the Security Council deems that the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under paragraph 5 or whether itself to recommend such terms of settlement as it may consider appropriate."

This important revision was adopted, and the paragraph as redrafted by the drafting and Co-ordination Committees appears as Article 37 of the Charter.

Committee III/2 further extended the powers of recommendation of the Security Council by approving the following amendment of the sponsoring Powers as a new paragraph for insertion in Chapter VIII, Section A, before paragraph 1:—

> "Without prejudice to the provisions of paragraphs 1–5 below, the Security Council should be empowered, if all the parties so request, to make recommendations to the parties to any dispute with a view to its settlement in accordance with the principles laid down in Chapter II, paragraph 3."

This amendment, which as redrafted has become Article 38 of the Charter, enables the Security Council, in *any* dispute, to recommend terms of settlement to the parties if they so request.

These two sponsoring Powers' amendments introduce more clearly into the Chapter the conception of orderly or peaceful change, and they were carefully scrutinized by the New Zealand delegation because of the additional powers conferred upon the Security Council. It was decided to support the amendments in the hope that they would increase the effectiveness and flexibility of the procedures available to the Security Council in the settlement of disputes. Any recommendations made would, under Article 24 of the Charter, require to be consonant with the purposes and principles of the Organization. Also, it was made clear in discussion before the Committee that, unless the dispute involved a threat to the peace, no recommendation under the revised paragraph 4 is binding on the parties.

A sponsoring Power's amendment requiring a non-member State which refers a dispute to the Council to accept for the purposes of the dispute the obligations of pacific settlement provided in the Charter was accepted and now appears in Article 35 of the Charter.

The fourth sponsoring Power amendment involved the deletion of paragraph 7 of Chapter VIII, Section A, relating to domestic jurisdiction. This amendment was considered by Committee I/1, and domestic jurisdiction is now dealt with in paragraph 7 of Article 2 of the Charter.

A good deal of reliance was placed by members of the Committee on interpretations of Chapter VIII, Section A, given by representatives of the sponsoring Powers. Of these, one in which New Zealand was concerned deserves mention here.

The New Zealand representative, referring to the words "they should obligate themselves to refer it to the Security Council" as they appear in paragraph 4 of Chapter VIII, Section A, inquired whether one party to a dispute could refer the matter to the Security Council, or whether reference by both parties was required. Sir William Malkin, speaking on behalf of the United Kingdom, replied that both parties were obligated, and if one party violated its obligation, the other party could bring its dispute before the Security Council.

The effect of this and of other interpretations which are recorded in the minutes of the various Committees of the Conference is not clear, particularly in cases where no indication was given that an interpretation was acceptable to all four sponsoring Powers. It may well be that it will fall to the International Court of Justice to determine the answer to such questions.

COMMISSION III COMMITTEE 3

SECURITY COUNCIL ENFORCEMENT ARRANGEMENTS

NEW ZEALAND REPRESENTATIVES

Delegate MR. C. A. BERENDSEN
Alternate MR. B. R. TURNER

IT FELL to this Committee, which was concerned with Chapter VIII, Section B, of the Dumbarton Oaks proposals, to discuss one of the most hotly contested points—namely, the respective areas of authority of the Security Council and the Assembly. This Committee was, of course, solely concerned with enforcement, and the same point arose in connection with other aspects—for example, the free right of Assembly discussion, which was considered in Committee II/2 dealing with the powers of the Assembly.

During the first few weeks of the Committee's deliberations its time was entirely occupied in considering the New Zealand proposal to insert a new paragraph after paragraph 4 of Section B, Chapter VIII, associating the Assembly with the Council in enforcement measures, and an alternative Canadian proposal intended to meet the same object, giving to the Powers not represented on the Council some voice in important decisions to be made by the Council. These proposals, though differing in method, were animated by the same objective and were discussed together.

The texts of the New Zealand and Canadian proposals were as follows:—

NEW ZEALAND—

"4A. (*a*) A decision of the Security Council involving the application of the measures contemplated in paragraphs 3 and 4 of Chapter VIII, Section B, shall require the concurring vote of the General Assembly, deciding by a simple majority.

"(*b*) Nevertheless, in any case which, in the opinion of the Security Council is of extreme urgency, the Security Council may decide to apply such measures forthwith without the concurring vote of the General Assembly; but in every such case it shall forthwith report its decision to the General Assembly.

"(*c*) Every decision made in accordance with subparagraphs (*a*) and (*b*) of this paragraph shall be binding on all members of the Organization."

CANADA—

"Any member of the United Nations not represented on the Security Council shall be invited to send a representative to sit as a member at any meeting of the Security Council which is discussing, under paragraph 4 above, the use of the forces which it has undertaken to make available to the Security Council in accordance with the special agreement or agreements provided for in paragraph 5 above."

In the general discussions which opened the Committee's work both the New Zealand and Canadian representatives made their points clear. The New Zealand representative made it plain that, in the view of the New Zealand delegation, the League of Nations did not fail because of any mechanical reason; it had failed in the last resort, and its failure was a very narrow one, because its members were in fact unwilling to carry out the pledges they had undertaken—a cause of failure from which the new organization about to be established would not be immune. It was not suggested that the Covenant of the League was a perfect instrument, and in one instance at least—the rule of unanimity prescribed by the Covenant—he agreed that the authors of the Dumbarton Oaks proposals were right in endeavouring to alter a provision which could in certain circumstances stultify the whole of the League's activities. In endeavouring to achieve this object the Dumbarton Oaks proposals, in the opinion of the New Zealand delegation, had swung much too far in the other direction and in an endeavour to remove the power of a single State, perhaps a collaborator or jackal of the aggressor, to hamstring the League's activities, the Dumbarton Oaks proposals had adopted the extreme and unnecessary course of depriving all Powers not represented on the Council of both vote and voice on all important decisions. The New Zealand delegation realized and appreciated to the full the decisive part played by the Great Powers in the defeat of the Axis; indeed, were it not for the Great Powers, the Conference would not have been sitting in San Francisco. They realized fully also that in the time to come and in the operation of the proposed organization the Great Powers should and must continue to play a predominant role, but the New Zealand delegate asked the Committee to look at the position as it would be were the Dumbarton Oaks proposals adopted in their entirety. In the first place, there would be an organization based primarily on the unanimous decision of the Great Powers, who would consider situations or disputes as they arose from time to time in order to ascertain whether they could unanimously agree amongst themselves, what, if anything, could be done about it, and would expect automatic support from the smaller Powers. He pointed out that the organization by definition was, by reason of the veto power, incapable of dealing with any dispute to which a Great Power was a party, or, indeed, with any dispute one of the parties to which was a small Power operating under the protection of a Great Power. This greatly, indeed critically, narrowed the type of dispute with which the Organization was capable of dealing. In this respect it would be greatly inferior to the provisions of the Covenant of the League. He asked the members of the Committee to face the facts and to recognize that while each permanent member of the Council retained for itself the right in every instance to say whether it would be bound or not bound—indeed, whether the Organization could act or not—these same Powers were asking smaller Powers to undertake a great, indeed a monumental, act of faith—to pledge themselves for all time to send their sons to die when they were told to do so by the members of the Security Council, as a result of a decision made by the Powers on that body at an unknown time, by unknown men, on unknown principles, and in unknown circumstances—a decision with which the small Powers would be bound to comply without, incredible as it might seem, either a vote or a voice. The smaller Powers had indeed representation on the Security Council, but he asked whether in matters of life and death six Powers could represent forty—indeed, as to whether in such matters thirty-nine could represent forty. It was pointed out that while democracy had been extremely fortunate in the great men it had thrown up to meet the present crisis, it was not to these men that these wide and great powers were being left. The great men of the day pass away and are replaced by other and perhaps lesser men.

Governments change from time to time for reasons unconnected with world affairs. The problems of the day change and are replaced by others, and who could know what might be the calibre of the men who were to wield these enormous powers in the time to come? Who could be sure that they would be men possessing that competence, that sense of responsibility, that integrity which alone could justify the transference of such enormous powers? It was further pointed out that in the last resort the success of this organization would depend upon public opinion throughout the world, and he thought there was grave doubt as to whether an organization built upon such a basis—the negation in the international field of those principles of democracy for which this very war had been fought—could offer any reasonable prospects of lasting permanence. The New Zealand delegation felt it essential that in matters of life and death those who were asked to make the sacrifices involved in the active repression of aggression should in some way or another be given a vote, or at least a voice. The New Zealand delegate asked how could any representative of a country return to his own land and ask his people to undertake warlike activities against an aggressor and satisfactorily meet the questions that he would be asked. Such a representative would certainly be asked whether he had supported the proposal, and, as contemplated in the Dumbarton Oaks proposals, he would be obliged to say he had had no vote. He would then be asked a further question, whether he had expressed agreement with the steps that were being taken, to which he would be obliged to reply again that he had had no opportunity of speaking on the matter, that the decision was taken by others, and that they were bound to act accordingly. He suggested that any man with a sense of realism must doubt the possibility of an organization based on such principles proving effective in the years to come. We were not building for this year or next year, but for many years ahead, and we must endeavour to provide some means for a voice—not a predominant voice, perhaps not even a proportionate voice, but still a voice—for all peoples who were called upon to take part in sanctions. If, then, there was any general agreement with this point of view, what could be done to meet it. There were two alternatives, and two only—one was to increase the membership of the Council in order to take into both the discussion and the decision of sanctions those States who would be called upon to assist. An unnecessarily large Council was, on the whole, not a good thing; any attempt at bringing all Powers into it for such purposes would destroy the object and impose delay and uncertainty. The New Zealand proposal, therefore, was to allow the Council as constituted in the Dumbarton Oaks proposals power both to act and, in cases of urgency, to make decisions binding on all members. Where no urgency existed he felt that the most effective course would be to give the Assembly, acting on a bare majority, the right to confirm the decisions of the Council on matters of enforcement. The suggestion was made for the purpose of giving to all members of the Organization the right to have both a voice and a vote in matters of life and death. The New Zealand delegation realized that this proposal was open to two quite obvious objections. In the first place, it could fairly be objected that the requirement of Assembly support for the actions of the Council in matters of enforcement would add a degree of uncertainty to the operation of the Organization. There was, of course, some validity in that objection, but it was pointed out that as a means of avoiding this difficulty the New Zealand proposal provided for the Assembly's confirmation of a Council proposal on enforcement to be made by a bare majority of those present and voting. As the matter would by definition come before the Assembly only when it had been passed by the Council, and thus only when all the five Great Powers and at least two of the

small Power representatives on the Council had concurred and would, of course, concur also in the Assembly, it would require a very large proportion of the other members of the Assembly to defeat such a proposal. This was an extremely improbable contingency, and if there were such a large proportion of the Assembly opposed to action it would clearly indicate a state of affairs in which the Council proposal had not satisfied public conscience and would certainly call for reconsideration.

The second objection that could be taken was that the association of the Assembly with the Council in such matters would involve delay in circumstances where delay might be fatal. The New Zealand delegation agreed at once that this was an objection which must be seriously considered, but urgency was in fact extremely unusual in such matters. A dangerous situation usually developed over a considerable period of time. In these days of rapid transit by air there was not the same difficulty as had existed in the past in arranging for an urgent meeting of the Assembly. In any case, the New Zealand amendment had provided for such a contingency inasmuch that whenever the Security Council in its own judgment regarded the situation as urgent, it was, in the terms of the New Zealand proposal, fully empowered to act at once and without any delay.

In conclusion, the New Zealand representative emphasized that his small country had given ample evidence in two world wars and in the period between those wars, when so many nations had lost the path to peace, of its integrity, its responsibility, and its determination to play its full part in the struggle for international peace and justice, for freedom and order. A dead New-Zealander, he stated, was just as great a tragedy to his small country as a dead Englishman in the United Kingdom or a dead American in the United States. New-Zealanders were in the forefront of those who wished to exorcise war for ever, and it was only because of serious doubts as to the success of an organization based on the principle of depriving the vast majority of its members of any vote or voice in matters of life and death that the New Zealand delegation felt compelled to put forward their proposal.

This statement lead to a very long and animated debate in which the New Zealand proposal was vehemently opposed by all the Great Powers, who are clearly convinced that the only chance of success is to establish an organization based for all practical purposes entirely upon their unanimous agreement and on little else, and in the course of the argument the condition so carefully prescribed in the New Zealand amendment, that in any case of urgency the Security Council was fully empowered to act at once and to bind all members, was very largely ignored, though it was reaffirmed and stressed from time to time by the New Zealand representative and others during the discussion.

The Canadian Prime Minister, the Right Hon. McKenzie King, spoke on behalf of the Canadian proposition. He shared the views of the New Zealand delegate as to the weakness of the structure proposed at Dumbarton Oaks. Each member called upon to contribute to sanctions must, he said, be given a voice, and unless this were provided for he himself did not believe that the Charter would be approved in the Canadian Parliament. His solution to the problem, however, took a different line. The Canadian proposal was that whenever a member of the Organization which was not represented on the Security Council was called upon to take part in sanctions, that member should be represented for that purpose on the Council and should therefore have both a vote and a voice. When pressed to explain whether this view applied both to military sanctions and to economic sanctions, he stated quite clearly that it did, but in the course of the discussions, which lasted in the Committee or in the sub-committee for many weeks, the application of the principle to economic sanctions was abandoned, and the

Canadian clause as finally proposed, and as accepted by the Committee, provided only that any member called upon to provide Armed Forces at the request of the Security Council should be entitled to sit and vote on the Council when the use of those Forces was being discussed.

During the course of the very lengthy debate on these two proposals a very considerable measure of agreement with the New Zealand thesis was voiced, and the suggestion by the representatives of the Great Powers that it should not receive serious consideration met with little sympathy amongst the smaller Powers. But there was in fact a clear realization by all that in an organization built on the Dumbarton Oaks plan, solely on the unanimous agreement of the Great Powers, it was useless to press a proposal which the Great Powers clearly and vehemently opposed, and when the New Zealand amendment was finally put to the vote it was defeated by 21 votes to 4, approximately half the members of the Committee abstaining from voting.

The Canadian amendment, after much discussion in the Committee and in the sub-committee, and still more discussion behind the scenes amongst the Great Powers, was finally approved in a restricted form (Article 44 of Charter), and it is not unfair to say that this improvement on the Dumbarton Oaks proposals is in an important degree the result of the representations put forward on behalf of New Zealand. But as the New Zealand delegation saw it, this provision, which was finally adopted, though a marked improvement on the Dumbarton Oaks proposals, is still open to serious objections, which were not fully developed in the Committee's hearings. It does allow—indeed, it contemplates—a considerable bloc of members who will not be asked to take any action at all and who will therefore have neither voice nor vote, and thus in one sense it does tend to destroy the universality and the authority of the Organization at its most critical point.

Attention should be directed to two further aspects of the amendment finally adopted as a result of the Canadian proposal, as follows: it will be observed that a Member State whose Forces are to be called upon to take part in sanctions is not, in terms of the amendment, entitled to take part in the discussion *whether sanctions are to be applied* or not. It is only when the Council has itself decided on such a course that a State, not a member of the Council but whose Forces are to be used, may be called in, and it is only on the restricted point as to the use of this military Force that the member is entitled to a voice. Some doubt might be expressed as to how far this proposal in its restricted form might not actually encourage reservations and restrictions on the use of force and thus militate against the over-all and universal application of sanctions upon which the Organization, to be fully effective, must be based.

It will be observed also that the right to take part in the Council's decision in the manner contemplated applies only to those Member States who are called upon to supply Armed Forces. It does not apply in the case of Member States called upon to take enforcement action short of armed force. In the opinion of the New Zealand delegation, economic sanctions promptly and universally applied will in the vast majority of cases eliminate the necessity of armed force. It is clear that in the application—for example, of economic sanctions—many nations will be called upon to make serious economic sacrifices, and perhaps to lay themselves open to reprisals, as the result of a decision of the Security Council, on which they will have no vote and no voice.

To sum up, this much has been gained as a result of the Canadian proposal—no Member State can now be called upon to send its sons to battle without at least an opportunity of discussing with the Council the circumstances and probably the area in which they are to fight.

With the only other amendment to this section proposed by the New Zealand delegation a greater measure of success was achieved. This referred to paragraph 5 of Section B, Chapter VIII, of the Dumbarton Oaks proposals, which prescribed the method by which Member States are to enter into a special agreement or agreements as to the use of their Armed Forces. It was only the New Zealand delegation, the Australian delegation, and the Indian delegation which criticized the extreme clumsiness of this proposal as drafted, and proposed amendments accordingly. It was pointed out by the New Zealand delegate, amongst others, that if it were left to the Member States to decide amongst themselves when and with whom they were to make these agreements, not only would there be very long and indefinite delay before all had been concluded in a manner satisfactory to the Council, but when at long last all the agreements had independently been made they must inevitably differ amongst themselves and the net result would clearly be inextricable confusion.

After an abortive attempt by the Great Powers to defend the Dumbarton Oaks provisions as they stood, this point of view was generally accepted by the Committee. As finally passed the paragraph made it clear that these agreements are to be made on the initiative of, with, and under the over-all supervision of the Security Council. (Article 43, para. 3, of Charter.)

The matter of aggression, its definition, and the desirability of providing for automatic action against aggression was also discussed at some length in this Committee on proposals made by the Bolivian and Philippine delegations for a definition of that term. Any suggestion that it should be defined was strongly resisted by the Great Powers on the ground that definition was impracticable. There was a general expression of opinion that complete and exclusive definition was difficult, perhaps even impracticable, but there was also a very large measure of agreement with the point of view expressed by the New Zealand delegate on the same lines as in Committee I/1 that a definition adequate for all practical purposes and covering all except the fringes of the area desired could in fact be produced without difficulty. The Great Powers, however, were strongly opposed not only to definition of the term, but also to any pledge on their part to act even when they had themselves decided that aggression had taken place, and the Bolivian and Philippine proposals, which were supported by New Zealand, were in the end defeated by substantial majorities.

Transitional Arrangements

The two paragraphs under this heading in the Dumbarton Oaks proposals (Chapter XII) dealt with two separate matters. The first was intended to cover the period during which the special military agreements were being negotiated and ratified and during which, of course, the Organization would not have at its disposal adequate Forces, if necessary, to impose its will against an aggressor State. During this period the intention was that the Four Powers who had signed the Moscow Declaration, in consultation with each other and with other members of the Organization, should take such joint action as may be necessary. The second clause was intended to remove the peace treaties and similar arrangements from the purview of the Organization altogether and to leave action under these treaties to the States undertaking obligations under those instruments.

There was no difference of opinion whatsoever in the Committee as to the principle involved, but there was much fully justified criticism on the drafting of both these paragraphs, and a curious position arose that while every member agreed as to what was intended a substantial struggle developed on how that intention was to be expressed.

In the Committee the representatives of the Great Powers would agree to one alteration only—namely, the inclusion of France in paragraph 1 as one of the Powers to be responsible under this Chapter until the military agreements had been signed. On the text of this alteration being put to the vote it was defeated by a small margin solely because of the ambiguities and the inadequacies of the drafting and was referred to a drafting sub-committee. In this sub-committee, on which New Zealand was represented, it was pointed out—as it had been in the Committee—that if, as the draft implied, the coming into force of the enforcement provisions of the Organization had to wait until all the agreements had been signed by all the members, then those provisions might never come into force; that it was far from clear whether even the peaceful settlement provisions could come into force until all the agreements had been signed; that it was far from clear who were "the other members of the Organization" with whom the specified Powers were to consult; that the role of the Security Council during that period was extremely doubtful, and that in other respects the position obviously needed clarification. In the event the Great Powers declined to consider any alterations and the matter was referred back to Committee III/3 by the deciding vote of the Great Powers with the recommendation that the text was adequate, but with an accompanying explanation of what was intended. The Committee, however, would not accept this proposal, and on the text being put to the vote it was rejected against the opposition of the Great Powers by 21 votes to 9, and subsequently referred to the Steering Committee. The Steering Committee declined to touch the matter, and Committee III/3 was again entrusted with it at a very late period of the proceedings. At this stage, as a result of negotiations between London, Moscow, and Washington, a new text of paragraph 1 was proposed, which, though still inadequate, did on the whole remove most of the difficulties, and was accepted without serious opposition. (Article 106 of Charter.)

Paragraph 2 of Chapter XII, the drafting of which also met with serious opposition in the Committee, reads as follows:—

> "2. No provision of the Charter should preclude action taken or authorized in relation to enemy States as a result of the present war by the Governments having responsibility for such action."

Committee III/3 felt that there were many objections to this clause, *inter alia*, that it set no time limit to the exemption of which it provided, and that accordingly the Powers parties to the peace treaties and similar instruments would retain their authority in such matters, perhaps even for centuries to come; that the phrase "enemy States" called for considerable clarification; that the term "present war" was anything but clear, particularly in view of the fact that some of the United Nations were at war with certain enemy Powers and some were not; that the phrase "action taken or authorized" was vague and imprecise, as, indeed, was the phrase "Governments having responsibilities." As a minor matter of drafting inelegancy attention was called to the fact that the word "preclude" was scarcely appropriate in referring in terms of the clause to action that had already been taken.

During the closing hours of the Conference this clause was rushed through, and as it was plain that no improvement could be effected without another reference to Moscow, London, and Washington, with considerable delay, it was accepted with an accompanying explanation as to the intention, which covered some, but not all, of the points that had been discussed. Some drafting changes were made in the final text, which reads as follows (Article 107 of Charter):—

> "Nothing in the present Charter shall invalidate or preclude action, in relation to any State which during the Second World War has been an enemy or any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action."

COMMISSION III COMMITTEE 4

SECURITY COUNCIL
REGIONAL ARRANGEMENTS

NEW ZEALAND REPRESENTATIVES

Delegate MR. C. A. BERENDSEN

Alternate MR. B. R. TURNER

THE MAIN question to be solved by this Committee was how to incorporate in the World Organization contemplated by the Dumbarton Oaks proposals the American system of collective security which had been agreed upon at the Conference at Chapultepec, Mexico, in March, 1945. In the Act of Chapultepec the signatory American Republics bound themselves to a full and complete system of collective security and mutual insurance against any act of aggression during the present war, either from within or without the Americas, and undertook as soon as the war was over to carry this regional collective system into the post-war period by means of appropriate treaties. It should be pointed out that the States represented at Chapultepec were already bound to aid each other against acts of aggression by any Power outside the continent of America and in this respect the Act of Chapultepec was in essence merely a reaffirmation of a doctrine which had underlain the foreign policy of all the American Republics for a very considerable time. But the extension to aggression from within the Americas—no doubt resulting from the steps that were then being taken in concert against Argentina—was a new and surprising development.

The American Republics attached great importance to the arrangements made at Chapultepec, and rightly so, because the system of security that they had there devised for the Americas was and is unquestionably a much better system than that proposed for the world under the Dumbarton Oaks proposals. The Chapultepec system is free from the complexities and inequities of the veto, it provides for an equal and full vote and voice for each member State, and in specific terms it includes a very definite pledge that an attack on one is to be regarded and resisted (by force if necessary) as an attack on all. Indeed, the New Zealand delegate, in giving his blessing to the unanimous agreement on the text by which this system was to be wedded to the World Organization, took the opportunity of congratulating the American Republics on achieving such a satisfactory result for their own protection and wished similar principles could be embodied with all their simplicity and effectiveness in the universal system of the World Organization.

The Dumbarton Oaks proposals included in Section C of Chapter VIII, a provision authorizing regional arrangements, but with the very definite limitation that no enforcement action should be taken under such regional arrangements without the authorization of the Security Council. The American Republics were faced with the problem of how to include the Chapultepec arrangements, covering as they did all possible contingencies, within the framework of the World Organization without depriving themselves of the automatic protection against aggression afforded by their regional pact. The veto right of the Great Powers was a complication here as in very many other respects. If one Great Power could by its veto prevent the authorization by the Security Council of action under the Act of Chapultepec, then that Pact, of course, lost its effectiveness, and it was very strongly felt by the American States that they must be free to act at once in self-defence or in common defence in case of attack, without the risk of delay involved in reference to the Security

Council. On the other hand, it was felt by the Great Powers, and most of the smaller Powers outside the Americas, that nothing must be allowed to derogate from the over-all authority of the World Organization.

Lengthy and difficult discussions amongst the American Republics themselves led finally to an agreed text which when put to the Committee by the American States was readily accepted. The solution took the form shortly of two independent provisions — firstly, that while the right of every member of the World Organization to approach the Security Council should at all times remain unimpaired, nevertheless parties to regional arrangements should make every effort to obtain settlement of local disputes through such agencies before referring them to the Security Council (Article 52 of Charter), and, secondly, a provision recognizing "the inherent right of individual or collective self-defence if an armed attack occurs against a Member State, until the Security Council has taken the measures necessary to maintain international peace and security," all measures under this provision to be forthwith reported to the Security Council (Article 51 of Charter).

Though this text was accepted unanimously as a solution of this problem, nevertheless its acceptance was immediately followed by a series of unilateral declarations by the South American Republics, which in many minds raised substantial doubts as to whether the agreement which had been achieved was upon a form of words rather than upon understood and agreed principles. Time alone will show whether agreement in fact has been achieved.

In his general remarks on Section C, Chapter VIII, the New Zealand representative emphasized the importance which the New Zealand delegation attached to the supremacy of the World Organization over any and all of its regional components. It might, he said, be the merest platitude to say that peace is indivisible, but this platitude, if it is such, does enshrine a profound truth. It would not, he feared, be possible to preserve peace in any one portion of the world unless peace could be preserved throughtout the whole world, and even such a large and powerful group as the American Republics could not hope to protect themselves in isolation in the world as it exists to-day and with methods of warfare as they have been, and will be, devised. While he fully agreed that members of the World Organization were entitled to make arrangements in advance to meet unexpected attack until the World Organization could operate, and while they must contemplate the possibility under the Dumbarton Oaks proposals, especially having regard to the veto of the Great Powers, that there might arise a set of circumstances in which the Organization could not operate at all, a contingency which Member States must recognize and against which they must make provision, nevertheless he feared that regional associations might in certain circumstances become disruptive rather than useful. The World Organization must be supreme if world peace is to be maintained and regional associations would be useful to the extent, and only to the extent, that they contributed to that end. He feared the possibility in the years to come that these very associations, designed and intended to assist in maintaining world peace, might actually become agencies against world peace. In incompetent or malicious hands they could—and, indeed, in certain circumstances would—lead to Power blocs, to spheres of influence, to group intrigue for selfish group interests, and perhaps might even act as a cloak for the preparation of that very aggression which they were in terms established to prevent. For that reason he welcomed very warmly indeed those provisions in the draft to be inserted in the Charter which proclaim the unquestioned supremacy of the World Organization over all regional associations, and particularly the

provisions requiring the Security Council to be at all times kept fully informed on regional activities and of any steps taken by Member States on a regional basis for the exercise of their admitted right of self defence.

It will be observed finally in the consideration of this Section that the authority of the Security Council is excepted in two cases. The first relates to measures against enemy States in this war as contemplated in the transitional arrangements contained in Chapter XVII of the Charter. Under this Chapter the World Organization is specifically excluded from all authority or functions connected with the repression of enemy States in the present war, until the Governments made responsible for these measures (presumably by the peace treaties) are of opinion that this responsibility should be handed over to the World Organization. The second reservation is an attempt to meet the complications caused by those engagements for mutual defence already entered into by certain members of the Organization, for example, the treaties between the U.S.S.R. and Czechoslovakia and France. These were represented as being in the nature of regional engagements within the terms of this Chapter. They were represented as being directed specifically against ex-enemy States and therefore as being in general in the same category as those referred to in Chapter XVII of the Charter. They have, therefore, been exempted from the provisions of the world Charter until the Governments concerned request that the responsibility for preventing further aggression by a State now at war with the United Nations be transferred to the Organization.

It cannot perhaps be suggested that this is an ideal arrangement, but it was generally conceded that it was the best that could be made in the circumstances as they exist, and it was accepted accordingly.

One New Zealand amendment was proposed to this Section. The Dumbarton Oaks proposals contemplated " regional arrangements or agencies and their activities " which are " consistent with the purposes and principles of the Organization." The New Zealand delegation proposed that this requirement should be made stronger and that the arrangements or agencies should actually be approved by the Organization as being consistent with its principles and purposes. This proposal did not meet with adequate support and was defeated in the sub-committee.

COMMISSION IV COMMITTEE 1

JUDICIAL ORGANIZATION
INTERNATIONAL COURT OF JUSTICE

NEW ZEALAND REPRESENTATIVE

THE RT. HON. SIR MICHAEL MYERS, G.C.M.G.

Alternate MR. C. C. AIKMAN

CHAPTERS IV and VII of the Dumbarton Oaks proposals contemplated the establishment of an International Court of Justice as the principal judicial organ of the United Nations Organization. The proposals suggested that the statute of the Court be annexed to and be a part of the Charter of the Organization and be either (*a*) the Statute of the Permanent Court of International Justice (referred to as the "old statute"), continued in force with such modifications as might be desirable, or (*b*) a new statute based on the Statute of the Permanent Court of International Justice.

The old statute, prepared by the Council of the League of Nations under Article 14 of the Covenant of the League of Nations*, was adjoined to a Protocol of Signature opened for signature on 16 December, 1920. New Zealand signed the protocol on 17 December, 1920, ratified her signature on 4 August, 1921, and has continued to be a party to the statute. It is generally agreed that the record of the Permanent Court was one calling for a good measure of satisfaction. The number and importance of the cases decided, the confidence built up in the Court's thoroughness and impartiality, the influence of the jurisprudence of the Court on the development of International Law, especially with respect to the pacific settlement of disputes, were a sufficient indication of success to justify the Dumbarton Oaks suggestion that the statute of the new International Court of Justice (referred to as the "new statute") might well be the old statute continued in force "with such modifications as may be desirable."

With a view to the preparation of a draft statute of an international court of justice for consideration by the United Nations Conference on International Organization at San Francisco, the four sponsoring Powers (United States, United Kingdom, Union of Soviet Socialist Republics, and China) convened a meeting of jurists, to take place at Washington, D.C., on 9 April, 1945, and each of the Governments invited to San Francisco was asked to send one representative, accompanied, if desired, by one or two advisers. The invitation suggested that if the jurists had not finished their work by 25 April, the remainder of their discussions might take place at San Francesco.

The Right Honourable Sir Michael Myers, G.C.M.G., Chief Justice of New Zealand, was named as the New Zealand representative on what became known as the United Nations Committee of Jurists. Mr. C. C. Aikman, of the Department of External Affairs, Wellington, accompanied him as adviser.

New Zealand and her representative were honoured by his being asked to reply to the speech of welcome made by Mr. Stettinius, the United States Secretary of State, at the opening session of the Committee of Jurists. The Chief Justice, in his address, emphasized that there could be no two opinions that one of the steps necessary to permanent peace and security is the establishment of an International Court of Justice which may decide in a peaceful manner disputes, at all events on justiciable matters, which may actually or even potentially arise as between nation and nation.

Consideration was immediately given at Washington to the alternatives presented by paragraph 3 of Chapter VII of the Dumbarton Oaks proposals as to the relation of the Permanent Court of International Justice to the new International Court of Justice. These alternatives came to be expressed as a choice between the old Court and a new Court. The Washington Committee decided that, in using the old statute as the basis of its deliberations, it could proceed with its work without, in the meantime, adopting either alternative. Accordingly, the Committee examined the old statute, article by article, and was able to prepare a draft statute suitable for use either as an amended statute of the old Court or as the statute of a new Court. Particular care was taken to ensure that so far as possible the numbering of the Articles as they appeared in the old statute was maintained.

*Article 14 of the Covenant provided as follows: "The Council shall formulate and submit to the members of the League for adoption, plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

The draft statute was incomplete in that three outstanding questions were left to be determined at San Francisco:—

(1) The choice between the old and a new Court.
(2) The method of nomination of the Judges of the Court.
(3) The jurisdiction of the Court.

The Washington Committee of Jurists did not sit as such at San Francisco since, under the organization of the United Nations Conference, judicial organization was to be within the competence of Commission IV of the Conference. Committee 1 of Commission IV was charged with the preparation of a draft of Chapter XIV of the Charter relating to the International Court of Justice and a draft of the statute of the Court to be annexed to the Charter.

The draft prepared by the Washington Committee was adopted by Committee IV/1 as a basis for its discussions. Many of the articles of the draft were approved with little or no discussion, but some delegations offered amendments, the consideration of which, together with the outstanding questions referred to above, formed the greater part of the work of Committee IV/1.

It is convenient to consider under separate headings the more important questions dealt with by the Washington Committee and by Committee IV/1.

1. *Old or New Court?*

The drafting of an Article 1 for the new statute raised the problem of old or new Court, and at Washington the form of this Article was debated at length both by a small sub-committee of which the New Zealand representative was Chairman, and by the full Committee. It was finally felt by the Committee that, in view of the political considerations involved, the drafting of Article 1 should be left for decision by the United Nations Conference at San Francisco.

When Article 1 came before Committee IV/1 the New Zealand representative asked that the arguments for and against the old Court be placed clearly before the Committee, and on his motion the matter was referred to a sub-committee. A most comprehensive report from the sub-committee recommended a new Court as the the alternative presenting the fewer difficulties. This report was unanimously adopted by the full Committee.

The chief obstacle militating against the acceptance of the old Court, an alternative which was attractive to many States because of the advantage of continuing the jurisprudence of a Court generally esteemed, was presented by the enemy and neutral States parties to the old statute which are not members of the United Nations, and by the large number of members of the United Nations which are not parties to the old statute. This obstacle, and the related obstacle of the adoption of amendments to the old statute, led to the recommendation in favour of a new Court. The recommendation took into consideration the numerous treaties which specify the old Court as the tribunal to which disputes are to be referred, and Article 37 of the new statute in part meets this difficulty by providing that, as between parties to the new statute, a reference in a treaty or convention to the Permanent Court of International Justice shall be a reference to the International Court of Justice.

Its decision to establish the new Court enabled Committee IV/1 to draft Article 1 of the new statute and to adopt certain provisions for inclusion in the Charter of the United Nations. These provisions, as amended by the Co-ordination Committee of the Conference, now appear as Articles 92, 93, and 95 of the Charter.

2. Nomination, Election, and Tenure of Judges

The old statute provided for the nomination of Judges by the national groups in the Permanent Court of Arbitration, and for a procedure of joint election by the Council and Assembly of the League of Nations. At Washington much support was given to a proposal that each Government should make a direct nomination of one candidate. A vote disclosed that the Washington Committee was evenly divided, and alternative drafts were therefore referred to San Francisco. The New Zealand representative supported direct nomination on the score of its greater simplicity.

Committee IV/1 voted, by the necessary majority, for the retention of the system of nomination by national groups. This decision was made possible by the desire of many States not to press for the amendment of a provision which had in practice worked to reasonable satisfaction. (Articles 4 and 5 of the new statute.)

The Washington Committee accepted, with little discussion, a procedure for the election of Judges analogous to that of the old statute—*i.e.*, election would be by both the Security Council and the General Assembly of the United Nations Organization. However, at San Francisco, the Latin American countries led an attempt to make the General Assembly the sole electoral body. Representatives argued that this was the intention of the last sentence of paragraph 4 of Chapter V, Section B, of the Dumbarton Oaks proposals, and that no other procedure was consistent with the equality of nations. It appeared likely that a vote would lead to a deadlock, and a compromise was finally reached under which the Security Council and the General Assembly both participate in the election of Judges, but by appropriate amendments to Articles 10 and 12 as they appeared in the Washington draft it was made clear that the permanent members of the Security Council have no right of veto over the election of Judges. The New Zealand representative took a prominent part in the endeavour to reach a compromise, and was a member of the sub-committee which drafted the articles as finally adopted.

Under the old statute the fifteen Judges of the Court were elected at the one time for contemporaneous terms of nine years. It had been felt by many jurists that the possibility of a completely new Bench of Judges every nine years endangered continuity in the work of the Court, and the new statute, although maintaining a bench of fifteen Judges each holding office for nine years, provides for a rotating system of election whereby five Judges are elected each three years. (Article 13 of the new statute.)

An addition of importance to New Zealand now appears in Article 3 of the new statute. Article 3 of the old statute provided that no two members of the Court should be nationals of the same State. It has been argued that this provision, in view of complementary nationality legislation attributing British nationality to the citizens of various members of the British Commonwealth, would prevent more than one member of the British Commonwealth having a Judge on the Bench at the same time. A similar difficulty might arise under Article 31 which enables each party to a case to have a Judge of its own nationality on the Bench. The terms of their nationality legislation make this doubt of particular interest to Australia and New Zealand, and their delegations gave some thought to the possibility of an interpretative amendment to the statute. Finally, the Australian representative moved the addition of the following paragraph to Article 3, and it was passed with little opposition:—

> "A person who for the purposes of membership in the Court could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights."

This addition, besides ensuring, for example, that a New-Zealander can sit as a Judge of the Court along with a citizen of the United Kingdom, could be used by any member of the United Nations in a case of dual nationality.

3. *Seat and Chambers of the Court*

The seat of the Court will continue to be The Hague, but Article 22 now provides that the Court may sit and exercise its functions elsewhere whenever the Court considers it desirable. The new statute also makes wider provision than the old for the establishment of Chambers to deal with particular cases, or categories of cases, and to exercise summary jurisdiction. These Chambers may, with the consent of the parties, sit elsewhere than at The Hague.

It had been anticipated prior to the Washington meeting that there would be considerable support for the establishment of regional chambers of the Court. However, proposals in this regard were not pressed, no doubt because of the provisions enabling the Court or its Chambers to sit in the actual vicinity of any dispute.

4. *Advisory Opinions*

Some delegations sought to enlarge the jurisdiction of the Court to give advisory opinions, and, in particular, it was urged that public international bodies, such as the International Labour Organization, should have direct access to the Court for the purpose of obtaining advisory opinions. At San Francisco a compromise proposal, to the effect that those public international organizations which are brought into relationship with the United Nations and are so authorized by the General Assembly may request advisory opinions on legal questions from the Court, was accepted in Committee II/2 and implemented by Committee IV/1 in Article 96 of the Charter and Article 65 of the new statute. The New Zealand delegation, consistently with its desire to extend the jurisdiction of the Court and to facilitate the work of organizations and specialized agencies associated with the United Nations, gave its active support to this proposal.

5. *Compulsory Jurisdiction*

Article 1 of the Charter requires the United Nations "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace," and the New Zealand delegation felt that the International Court of Justice as the principal judicial organ of the United Nations could only be really effective if all members of the United Nations were obliged to refer to it all disputes of a legal or justiciable character. In other words, the Court should have "compulsory jurisdiction."

The question of compulsory jurisdiction had arisen in the drafting of the old statute, and the statute as finally drafted did not provide for compulsory jurisdiction, but included the so-called "optional clause." This clause was embodied in Article 36 of the old statute which, after providing that the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specifically provided for in treaties and conventions in force, permits parties to the statute to make a declaration accepting the compulsory jurisdiction of the Court in certain classes of legal disputes. Forty-seven States at one time or other elected to make such declarations, most of

them subject to reservations. New Zealand made a declaration, with reservations, on 19 September, 1929, and a renewal of the declaration, made on 1 April, 1940, was effective until 1 April, 1945.

Many delegations agreed with the New Zealand view that the time had now arrived for a further advance in the direction of compulsory jurisdiction than the compromise represented by the optional clause, and the question proved to be the most controversial one arising in the drafting of the new statute. Discussion began with a lengthy debate at Washington during which most of the representatives present expressed their views. A majority favoured compulsory jurisdiction, but of the four sponsoring Powers, the United States, U.S.S.R., and the United Kingdom sought, by the retention of the optional clause, to leave the acceptance of compulsory jurisdiction to the volition of each party to the statute. As in the case of the old or new Court issue, it was agreed that political considerations outside the province of a Jurists Committee were involved, and on the motion of the New Zealand representative two alternative texts of Article 36 were referred to San Francisco, one embodying compulsory jurisdiction without reservations and the other the optional clause.

In the debate before Committee IV/1 it appeared that there was a fairly general feeling in favour of compulsory jurisdiction, but that, in all probability, there would not be the requisite two-thirds majority. The New Zealand representative, after emphasizing that New Zealand supported compulsory jurisdiction without reservations, submitted a draft of Article 36 which, in providing for compulsory jurisdiction with uniform reservations applicable to all legal disputes and all nations alike, represented a compromise between the two Washington texts.

Eventually the whole matter was referred to a sub-committee (of which the New Zealand representative was a member) for consideration and report. Debate in the sub-committee centred round the New Zealand draft. During the discussion it was stated by the representative of the U.S.A. that his Government might have difficulty at present in accepting a statute providing for compulsory jurisdiction, whether with or without reservations. The representative of the Soviet Union stated that the U.S.S.R. had not been able to see its way to accept membership of the old Court even under "optional" jurisdiction. He expressed the belief that his Government might be prepared to accept the optional clause and eventually to agree to a general provision for the compulsory reference of all legal disputes to the Court. He said frankly that he felt that acceptance by the U.S.S.R. of the statute, and even of the Charter itself, might be endangered if compulsory jurisdiction were adopted now, even with reservations as contemplated by the New Zealand proposal. The New Zealand representative urged that these statements should not affect the minds of the sub-committee, whose duty as an expert body it was to recommend what is considered the best solution to the problem. If the sub-committee favoured the New Zealand compromise, it should report accordingly, leaving the main Committee and, if necessary, the Commission to take into account the political considerations involved. But for the representations made by the representatives of the U.S.A. and the U.S.S.R., the New Zealand compromise would probably have been accepted by the sub-committee, since the representatives of two countries which favoured compulsory jurisdiction were obviously, and indeed admittedly, affected by these representations and voted for the retention of the optional clause. The result was that the voting was five in favour of the New Zealand proposal and seven against, and the sub-committee by a majority reported in favour of a recommendation that the optional clause be retained.

When the sub-committee's report came before the main Committee the New Zealand representative carefully explained the New Zealand position. He pointed out that the New Zealand delegation, although supporting compulsory jurisdiction, had sought a compromise along the lines of the draft he had submitted. The delegation had stated its views clearly and still adhered to them, but in the light of the decision of the sub-committee would not do more unless the compromise was actively pressed before the Committee by other delegations.

On a vote being taken on the question of principle whether the optional clause should be retained, the result was 26 for and 16 against, with the New Zealand representative abstaining. The majority was less than two-thirds, and it was plain that there would not be the requisite majority in favour of any of the proposals. The New Zealand representative indicated that he did not wish to cause an impasse, and on the roll call being taken on the question of the adoption of the sub-committee's report recommending the retention of the optional clause he voted "yes, but only to avoid an impasse," and asked that his vote be so recorded.

The voting on this second question was 31 for and 14 against, which gave the necessary majority. Details are as follows:—

Affirmative

Argentina, Australia, Belgium, Brazil, Byelorussia, Canada, Chile, China, Colombia, Cuba, Czechoslovakia, Ethiopia, France, Honduras, India, Iraq, the Netherlands, New Zealand, Nicaragua, Norway, Peru, Philippine Commonwealth, Syria, South Africa, Turkey, Ukranian S.S.R., U.S.S.R., United Kingdom, United States of America, Venezuela, Yugoslavia.

The following stated that they voted in favour only to prevent a stalemate:—

Australia, China, New Zealand, and Turkey.

Negative

Bolivia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Greece, Guatemala, Iran, Liberia, Mexico, Panama, Paraguay, Uruguay.

The result is to be regarded as unsatisfactory, though in the circumstances unavoidable. If the voting had been in accordance with the previously declared views of the representatives of the various nations, the New Zealand compromise would probably have been carried by a substantial majority.

In order to maintain so far as possible the progress towards compulsory jurisdiction already made by the Permanent Court of International Justice, Article 36 now contains a paragraph providing that declarations made under Article 36 of the old statute, and which are still in force, are to be deemed as between the parties to the new statute to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they have to run and in accordance with their terms. As indicated above, the New Zealand declaration expired on 1 April, 1945, and a new declaration will be necessary before New Zealand is compulsorily bound to submit disputes to the International Court of Justice.

6. *Enforcement*

Article 94 of the Charter represents an important development. Under the Article members of the Organization undertake to comply with the decisions of the Court to which they are parties. This is followed by a provision that, if a State fails to discharge its obligations under a judgment rendered, the other party or parties to the case may bring the matter to the attention of the Security Council, which may make recommendations or take the measures which it deems necessary.

COMMISSION IV COMMITTEE 2

JUDICIAL ORGANIZATION: LEGAL PROBLEMS

NEW ZEALAND REPRESENTATIVE

RT. HON. SIR MICHAEL MYERS, G.C.M.G.
Alternate MR. C. C. AIKMAN

THE WORK of Committee 2 was described as "Legal Problems," and its terms of reference were—

"To prepare and recommend to Commission IV draft provisions for the Charter of the United Nations relating to matters dealt with in connection with the functioning of the United Nations Organization, such as registration of treaties, treaty obligations inconsistent with the Charter, the judicial status of the Organization, and privileges and immunities of officials of the Organization."

The topics actually considered by the Committee were—

(1) Registration and publication of treaties.
(2) Obligations inconsistent with the Charter.
(3) Juridical status of the Organization.
(4) Privileges and immunities.
(5) Coming into force of the Charter.
(6) Reconsideration of treaties.
(7) Development of international law.
(8) Relation of international law and the Charter to internal law.
(9) Interpretation of the Charter.

The procedure adopted by the Committee provided for a general discussion on each of these topics. If it was decided that a particular topic should be covered in the Charter, a sub-committee, on which New Zealand was represented, was asked to draft a suitable provision. The reports of the sub-committee were incorporated in the Rapporteur's report on Committee IV/2.

Texts covering the first five of the topics referred to above were prepared by the Committee. These texts, as modified by the Co-ordination Committee, now appear respectively as Articles 102, 103, 104, 105, and 110 of the Charter of the United Nations.

No action was taken with regard to reconsideration of treaties and development of international law, since these topics were before Committee II/2. A proposal that the Charter contain a clause stating that no member may evade its obligations under the Charter by invoking the provisions of its internal law did not obtain the necessary majority, the general opinion being that the proposal amounted to no more than a re-statement of a principle of international law.

The Committee had referred to it by Committee II/2 the question, "How and by what organ or organs of the Organization could the Charter be interpreted?" It was decided that no provision in the Charter was called for, since it would fall to the various organs of the Organization to interpret such parts of the Charter as were applicable to their own particular functions. Committee IV/2 in its report suggests procedures which will be available to organs in the event of conflicts of interpretation.

APPENDIX I

CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS

determined

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom,

and for these ends

to practise tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

have resolved to combine our efforts
to accomplish these aims.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I

PURPOSES AND PRINCIPLES

Article 1

The purposes of the United Nations are:—

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its members.

2. All members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.

3. All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

5. All members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any State against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that States which are not members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II

Membership

Article 3

The original members of the United Nations shall be the States which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving States which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such State to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III

ORGANS

Article 7

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV

THE GENERAL ASSEMBLY

Composition

Article 9

1. The General Assembly shall consist of all the members of the United Nations.
2. Each member shall have not more than five representatives in the General Assembly.

Functions and Powers

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the members of the United Nations or to the Security Council, or to both, on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the members or to the Security Council, or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any member of the United Nations, or by the Security Council, or by a State which is not a member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the State or States concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.
3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.
4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:—

(*a*) Promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;
(*b*) Promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (*b*) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting

Article 18

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (*c*) of Article 86, the admission of new members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Procedure

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V

The Security Council

Composition

Article 23

1. The Security Council shall consist of eleven members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Functions and Powers

Article 24

1. In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the members of the United Nations for the establishment of a system for the regulation of armaments.

Voting

Article 27

1. Each member of the Security Council shall have one vote.

2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members, including the concurring votes of the permanent members: Provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Procedure

Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the Government or by some other specially designated representative.

3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that member are specially affected.

Article 32

Any member of the United Nations which is not a member of the Security Council or any State which is not a member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a State which is not a member of the United Nations.

CHAPTER VI

Pacific Settlement of Disputes

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A State which is not a member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII

Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of members of the United Nations.

Article 43

1. All members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and members or between the Security Council and groups of members, and shall be subject to ratification by the signatory States in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that member, if the member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, members shall hold immediately available national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any State are taken by the Security Council, any other State, whether a member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII

Regional Arrangements

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any

enemy State, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such State, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a State.

2. The term "enemy State" as used in paragraph 1 of this Article applies to any State which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX

International Economic and Social Co-operation

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

(*a*) Higher standards of living, full employment, and conditions of economic and social progress and development;

(*b*) Solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and

(*c*) Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All members pledge themselves to take joint and seperate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the States concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X

The Economic and Social Council

Composition

Article 61

1. The Economic and Social Council shall consist of eighteen members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the members of the United Nations and with the specialized agencies to obtain reports on the steps taken to

give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

Voting

Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

Procedure

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI

Declaration regarding non-self-governing Territories

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

(*a*) To ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

(*b*) To develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

(*c*) To further international peace and security;

(*d*) To promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scienitfic purposes set forth in this Article; and

(*e*) To transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII

International Trusteeship System

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:—

(*a*) To further international peace and security;

(*b*) To promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

(*c*) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

(*d*) To ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

(*a*) Territories now held under mandate;
(*b*) Territories which may be detached from enemy States as a result of the Second World War; and
(*c*) Territories voluntarily placed under the system by States responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the States directly concerned, including the mandatory power in the case of territories held under mandate by a member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any States or any peoples or the terms of existing international instruments to which members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more States or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.
2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII

The Trusteeship Council

Composition

Article 86

1. The Trusteeship Council shall consist of the following members of the United Nations:—

(*a*) Those members administering trust territories;
(*b*) Such of those members mentioned by name in Article 23 as are not administering trust territories; and
(*c*) As many other members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

Functions and Powers

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:—

(*a*) Consider reports submitted by the administering authority;
(*b*) Accept petitions and examine them in consultation with the administering authority;
(*c*) Provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
(*d*) Take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

Voting

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

Procedure

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV

The International Court of Justice

Article 92

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

Article 93

1. All members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
2. A State which is not a member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV

The Secretariat

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any Government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI

Miscellaneous Provisions

Article 102

1. Every treaty and every international agreement entered into by any member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its members such privileges and immunities as are necessary for the fulfilment of its purposes.

2. Representatives of the members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the members of the United Nations for this purpose.

CHAPTER XVII

Transitional Security Arrangements

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30 October, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any State which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII

Amendments

Article 108

Amendments to the present Charter shall come into force for all members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each member of the United Nations shall have one vote in the conference.
2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two-thirds of the members of the United Nations, including all the permanent members of the Security Council.
3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX

Ratification and Signature

Article 110

1. The present Charter shall be ratified by the signatory States in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory States of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory States. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory States.
4. The States signatory to the present Charter which ratify it after it has come into force will become original members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory States.

In faith whereof the representatives of the Governments of the United Nations have signed the present Charter.

Done at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

STATUTE OF THE INTERNATIONAL COURT OF JUSTICE

Article 1

THE INTERNATIONAL COURT OF JUSTICE established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I

ORGANIZATION OF THE COURT

Article 2

The Court shall be composed of a body of independent Judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same State.

2. A person who for the purposes of membership in the Court could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.

2. In the case of members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their Governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.

3. The conditions under which a State which is a party to the present Statute but is not a member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the States which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.

2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest Court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.

2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9

At every election the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.

2. Any vote of the Security Council, whether for the election of Judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.

3. In the event of more than one national of the same State obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.

2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.

3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.

4. In the event of an equality of votes among the Judges, the eldest Judge shall have a casting vote.

Article 13

1. The members of the Court shall be elected for nine years and may be re-elected: Provided, however, that of the Judges elected at the first election, the terms of five Judges shall expire at the end of three years and the terms of five more Judges shall expire at the end of six years.

2. The Judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.

2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.

2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international Court, or of a commission of inquiry, or in any other capacity.

3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.

2. Formal notification thereof shall be made to the Secretary-General by the Registrar.

3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open Court that he will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.

2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each Judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of Judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more Judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine Judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more Judges as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of Judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five Judges, which, at the request of the parties, may hear and determine cases by summary procedure. In addition, two Judges shall be selected for the purpose of replacing Judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a Judge of the nationality of one of the parties, any other party may choose a person to sit as Judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no Judge of the nationality of the parties, each of these parties may proceed to choose a Judge as provided in paragraph 2 of this Article.
4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the Judges specially chosen by the parties.
5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.
6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which he acts as President.
4. The Judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.
5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.
6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.
7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their travelling expenses refunded.
8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II

COMPETENCE OF THE COURT

Article 34

1. Only States may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.

3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. The Court shall be open to the States parties to the present Statute.

2. The conditions under which the Court shall be open to other States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

3. When a State which is not a member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such State is bearing a share of the expenses of the Court.

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.

2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:—

(*a*) The interpretation of a treaty;
(*b*) Any question of international law;
(*c*) The existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) The nature or extent of the reparation to be made for the breach of an international obligation.

3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:—

(*a*) International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;

(*b*) International custom, as evidence of a general practice accepted as law;

(*c*) The general principles of law recognized by civilized nations;

(*d*) Subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono,* if the parties agree thereto.

CHAPTER III

Procedure

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the members of the United Nations through the Secretary-General, and also any other States entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.

2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts—written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the Government of the State upon whose territory the notice has to be served.
2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the Senior Judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an inquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favour of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the Judges present.
2. In the event of an equality of votes, the President or the Judge who acts in his place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the Judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the Judges, any Judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open Court, due notice having been given to the agents.

Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision must be made at latest within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

1. Should a State consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.

2. It shall be for the Court to decide upon this request.

Article 63

1. Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.

2. Every State so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV

Advisory Opinions

Article 65

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.

2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all States entitled to appear before the Court.

2. The Registrar shall also, by means of a special and direct communication, notify any State entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such State entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this Article, such State may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements, or both, shall be permitted to comment on the statements made by other States or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to States and organizations having submitted similar statements.

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of members of the United Nations, of other States and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V

Amendment

Article 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject, however, to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of States which are parties to the present Statute but are not members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

APPENDIX II

INTERIM ARRANGEMENTS CONCLUDED BY THE GOVERNMENTS REPRESENTED AT THE UNITED NATIONS CONFERENCE ON INTERNATIONAL ORGANIZATION

The governments represented at the United Nations Conference on International Organization in the City of San Francisco,

Having determined that an international organization, to be known as the United Nations, shall be established,

Having this day signed the Charter of the United Nations, and

Having decided that, pending the coming into force of the Charter and the establishment of the United Nations as provided in the Charter, a Preparatory Commission of the United Nations should be established for the performance of certain functions and duties,

Agree as follows:

1. There is hereby established a Preparatory Commission of the United Nations for the purpose of making provisional arrangements for the first sessions of the General Assembly, the Security Council, the Economic and Social Council, and the Trusteeship Council, for the establishment of the Secretariat, and for the convening of the International Court of Justice.

2. The Commission shall consist of one representative from each Government signatory to the Charter. The Commission shall establish its own rules of procedure. The functions and powers of the Commission, when the Commission is not in session, shall be exercised by an Executive Committee composed of the representatives of those Governments now represented on the Executive Committee of the Conference. The Executive Committee shall appoint such committees as may be necessary to facilitate its work, and shall make use of persons of special knowledge and experience.

3. The Commission shall be assisted by an Executive Secretary, who shall exercise such powers and perform such duties as the Commission may determine, and by such staff as may be required. This staff shall be composed so far as possible of officials appointed for this purpose by the participating Governments on the invitation of the Executive Secretary.

4. The Commission shall:

(*a*) Convoke the General Assembly in its first session;

(*b*) Prepare the provisional agenda for the first sessions of the principal organs of the Organization, and prepare documents and recommendations relating to all matters on these agenda;

(*c*) Formulate recommendations concerning the possible transfer of certain functions, activities, and assets of the League of Nations which it may be considered desirable for the new Organization to take over on terms to be arranged;

(*d*) Examine the problems involved in the establishment of the relationship between specialized intergovernmental organizations and agencies and the Organization;

(*e*) Issue invitations for the nomination of candidates for the International Court of Justice in accordance with the provisions of the Statute of the Court;

(*f*) Prepare recommendations concerning arrangements for the Secretariat of the Organization; and

(*g*) Make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization.

5. The expenses incurred by the Commission and the expenses incidental to the convening of the first meeting of the General Assembly shall be met by the Government of the United Kingdom of Great Britain and Northern Ireland or, if the Commission so requests, shared by other Governments. All such advances from Governments shall be deductible from their first contributions to the Organization.

6. The seat of the Commission shall be located in London. The Commission shall hold its first meeting in San Francisco immediately after the conclusion of the United Nations Conference on International Organization. The Executive Committee shall call the Commission into session again as soon as possible after the Charter of the Organization comes into effect and whenever subsequently it considers such a session desirable.

7. The Commission shall cease to exist upon the election of the Secretary-General of the Organization, at which time its property and records shall be transferred to the Organization.

8. The Government of the United States of America shall be the temporary depositary and shall have custody of the original document embodying these interim arrangements in the five languages in which it is signed. Duly certified copies thereof shall be transmitted to the Governments of the signatory States. The Government of the United States of America shall transfer the original to the Executive Secretary on his appointment.

9. This document shall be effective as from this date, and shall remain open for signature by the States entitled to be the original members of the United Nations until the Commission is dissolved in accordance with paragraph 7.

IN FAITH WHEREOF the undersigned representatives having been duly authorized for that purpose, sign this document in the English, French, Chinese, Russian, and Spanish languages, all texts being of equal authenticity.

DONE at the City of San Francisco this twenty-sixth day of June, one thousand nine hundred and forty-five.

APPENDIX III

THE DUMBARTON OAKS PROPOSALS FOR THE ESTABLISHMENT OF A GENERAL INTERNATIONAL ORGANIZATION*

THERE should be established an international organization under the title of The United Nations, the Charter of which should contain provisions necessary to give effect to the proposals which follow.

CHAPTER I.—PURPOSES

The purposes of the Organization should be:—

1. To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means the adjustment or settlement of international disputes which may lead to a breach of the peace;
2. To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in the solution of international economic, social, and other humanitarian problems; and
4. To afford a centre for harmonizing the actions of nations in the achievement of these common ends.

CHAPTER II.—PRINCIPLES

In pursuit of the purposes mentioned in Chapter I the Organization and its members should act in accordance with the following principles:—

1. The Organization is based on the principle of the sovereign equality of all peace-loving States.
2. All members of the Organization undertake, in order to ensure to all of them the rights and benefits resulting from membership in the Organization, to fulfil the obligations assumed by them in accordance with the Charter.
3. All members of the Organization shall settle their disputes by peaceful means in such a manner that international peace and security are not endangered.
4. All members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization.
5. All members of the Organization shall give every assistance to the Organization in any action undertaken by it in accordance with the provisions of the Charter.
6. All members of the Organization shall refrain from giving assistance to any State against which preventive or enforcement action is being undertaken by the Organization.

The Organization should ensure that States not members of the Organization act in accordance with these principles so far as may be necessary for the maintenance of international peace and security.

CHAPTER III.—MEMBERSHIP

Membership of the Organization should be open to all peace-loving States.

CHAPTER IV.—PRINCIPAL ORGANS

1. The Organization should have as its principal organs:—
   (*a*) A General Assembly;
   (*b*) A Security Council;
   (*c*) An International Court of Justice; and
   (*d*) A Secretariat.
2. The Organization should have such subsidiary agencies as may be found necessary.

* Including text of provision relative to voting procedure in the Security Council (Chapter VI, Section C), as agreed upon at the Crimea Conference.

Chapter V.—The General Assembly

A. *Composition*

All members of the Organization should be members of the General Assembly and should have a number of representatives to be specified in the Charter.

B. *Functions and Powers*

1. The General Assembly should have the right to consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.

2. The General Assembly should be empowered to admit new members to the Organization upon the recommendation of the Security Council.

3. The General Assembly should, upon the recommendation of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council. The exercise of the rights and privileges thus suspended may be restored by the decision of the Security Council. The General Assembly should be empowered upon the recommendation of the Security Council to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

4. The General Assembly should elect the non-permanent members of the Security Council and the members of the Economic and Social Council provided for in Chapter IX. It should be empowered to elect, upon the recommendation of the Security Council, the Secretary-General of the Organization. It should perform such functions in relation to the election of the Judges of the International Court of Justice as may be conferred upon it by the Statute of the Court.

5. The General Assembly should apportion the expenses among the members of the Organization and should be empowered to approve the budgets of the Organization.

6. The General Assembly should initiate studies and make recommendations for the purpose of promoting international co-operation in political, economic, and social fields and of adjusting situations likely to impair the general welfare.

7. The General Assembly should make recommendations for the co-ordination of the policies of international economic, social, and other specialized agencies brought into relation with the Organization in accordance with agreements between such agencies and the Organization.

8. The General Assembly should receive and consider annual and special reports from the Security Council and reports from other bodies of the Organization.

C. *Voting*

1. Each member of the Organization should have one vote in the General Assembly.

2. Important decisions of the General Assembly, including recommendations with respect to the maintenance of international peace and security; the election of members of the Security Council; the election of members of the Economic and Social Council; the admission of members, suspension of exercise of the rights and privileges of members and the expulsion of members; and budgetary questions, should be made by a two-thirds majority of those present and voting. On other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, the decisions of the General Assembly should be made by a simple majority vote.

D. *Procedure*

1. The General Assembly should meet in regular annual sessions and in such special sessions as occasion may require.

2. The General Assembly should adopt its own rules of procedure and elect its president for each session.

3. The General Assembly should be empowered to set up such bodies and agencies as it may deem necessary for the performance of its functions.

Chapter VI.—The Security Council

A. *Composition*

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and, in due course, France, should have permanent seats. The General Assembly should elect six States to fill the non-permanent seats. These six States should be elected for a term of two years, three retiring each year. They should not be immediately eligible for re-election. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

B. *Principal Functions and Powers*

1. In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.

2. In discharging these duties the Security Council should act in accordance with the purposes and principles of the Organization.

3. The specific powers conferred on the Security Council in order to carry out these duties are laid down in Chapter VIII.

4. All members of the Organization should obligate themselves to accept the decisions of the Security Council and to carry them out in accordance with the provisions of the Charter.

5. In order to promote the establishment and maintenance of international peace and security with the least diversion of the world's human and economic resources for armaments, the Security Council, with the assistance of the Military Staff Committee referred to in Chapter VIII, Section (*b*), paragraph 9, should have the responsibility for formulating plans for the establishment of a system of regulation of armaments for submission to the members of the Organization.

C. *Voting*

1. Each member of the Security Council should have one vote.

2. Decisions of the Security Council on procedural matters should be made by an affirmative vote of seven members.

3. Decisions of the Security Council on all other matters should be made by an affirmative vote of seven members, including the concurring votes of the permanent members: Provided that, in decisions under Chapter VIII, Section A, and under the second sentence of paragraph 1 of Chapter VIII, Section C, a party to a dispute should abstain from voting.

D. *Procedure*

1. The Security Council should be so organized as to be able to function continuously and each State member of the Security Council should be permanently represented at the headquarters of the Organization. It may hold meetings at such other places as in its judgment may best facilitiate its work. There should be periodic meetings at which each State member of the Security Council could, if it so desired, be represented by a member of the Government or some other special representative.

2. The Security Council should be empowered to set up such bodies or agencies as it may deem necessary for the performance of its functions, including regional sub-committees of the Military Staff Committee.

3. The Security Council should adopt its own rules of procedure, including the method of selecting its President.

4. Any member of the Organization should participate in the discussion of any question brought before the Security Council whenever the Security Council considers that the interests of that member of the Organization are especially affected.

5. Any member of the Organization not having a seat on the Security Council and any State not a member of the Organization if it is a party to a dispute under consideration by the Security Council should be invited to participate in the discussion relating to the dispute.

Chapter VII.—An International Court of Justice

1. There should be an International Court of Justice which should constitute the principal judicial organ of the Organization.

2. The Court should be constituted and should function in accordance with a Statute which should be annexed to and be a part of the Charter of the Organization.

3. The Statute of the Court of International Justice should be either (*a*) the Statute of the Permanent Court of International Justice, continued in force with such modifications as may be desirable, or (*b*) a new Statute in the preparation of which the Statute of the Permanent Court of International Justice should be used as a basis.

4. All members of the Organization should, *ipso facto*, be parties to the Statute of the International Court of Justice.

5. Conditions under which States not members of the Organization may become parties to the Statute of the International Court of Justice should be determined in each case by the General Assembly upon the recommendation of the Security Council.

Chapter VIII.—Arrangements for the Maintenance of International Peace and Security, including the Prevention and Suppression of Aggression

A. *Pacific Settlement of Disputes*

1. The Security Council should be empowered to investigate any dispute, or any situation which may lead to international friction or give rise to a dispute, in order to determine whether its continuance is likely to endanger the maintenance of international peace and security.

2. Any State, whether a member of the Organization or not, may bring any such dispute or situation to the attention of the General Assembly or of the Security Council.

3. The parties to any dispute the continuance of which is likely to endanger the maintenance of international peace and security should obligate themselves, first of all, to seek a solution by negotiation, mediation, conciliation, arbitration or judicial settlement, or other peaceful means of their own choice. The Security Council should call upon the parties to settle their dispute by such means.

4. If, nevertheless, parties to a dispute of the nature referred to in paragraph 3 above fail to settle it by the means indicated in that paragraph, they should obligate themselves to refer it to the Security Council. The Security Council should in each case decide whether or not the continuance of the particular dispute is in fact likely to endanger the maintenance of international peace and security and, accordingly, whether the Security Council should deal with the dispute, and, if so, whether it should take action under paragraph 5.

5. The Security Council should be empowered at any stage of a dispute of the nature referred to in paragraph 3 above to recommend appropriate procedures or methods of adjustments.

6. Justiciable disputes should normally be referred to the International Court of Justice. The Security Council should be empowered to refer to the Court for advice legal questions connected with other disputes.

7. The provisions of paragraphs 1–6 of Chapter VIII, Section A, should not apply to situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of the State concerned.

B. *Determination of Threats to the Peace or Acts of Aggression, and Action with respect thereto*

1. Should the Security Council deem that a failure to settle a dispute in accordance with the procedures indicated in paragraph 3 of Section A or in accordance with its recommendations made under paragraph 5 of Section A, constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.

2. In general the Security Council should determine the existence of any threat to the peace, breach of the peace, or act of aggression, and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security.

3. The Security Council should be empowered to determine what diplomatic, economic, or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio, and other means of communication and the severance of diplomatic and economic relations.

4. Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of members of the Organization.

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded among themselves, armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible, and should in each case be subject to approval by the Security Council and to ratification by the signatory States in accordance with their constitutional processes.

6. In order to enable urgent military measures to be taken by the Organization, there should be held immediately available by the members of the Organization national air force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action should be determined by the Security Council, with the assistance of the Military Staff Committee, within the limits laid down in the special agreement or agreements referred to in paragraph 5 above.

7. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security should be taken by all members of the Organization in co-operation or by some of them as the Security Council may determine. This undertaking should be carried out by the members of the Organization by their own action and through action of the appropriate specialized Organizations and agencies of which they are members.

8. Plans for the application of armed force should be made by the Security Council with the assistance of the Military Staff Committee referred to in paragraph 9 below.

9. There should be established a Military Staff Committee, the functions of which should be to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, to the employment and command of forces placed at its disposal, to the regulation of armaments, and to possible disarmament. It should be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. The Committee should be composed of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the Organization not permanently represented on the Committee should be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires that such a State should participate in its work. Questions of command of forces should be worked out subsequently.

10. The members of the Organization should join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

11. Any State, whether a member of the Organization or not, which finds itself confronted with special economic problems arising from the carrying-out of measures which have been decided upon by the Security Council should have the right to consult the Security Council in regard to a solution of those problems.

C. *Regional Arrangements*

1. Nothing in the Charter should preclude the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities are consistent with the purposes and principles of the Organization. The Security Council should encourage settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the States concerned or by reference from the Security Council.

2. The Security Council should, where appropriate, utilize such arrangements or agencies for enforcement action under its authority but no enforcement action should be taken under regional arrangements or by regional agencies without the authorization of the Security Council.

3. The Security Council should at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX.—ARRANGEMENTS FOR INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

A. *Purpose and Relationship*

1. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social, and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly and under the authority of the General Assembly in an Economic and Social Council.

2. The various specialized economic, social, and other organizations and agencies would have responsibilities in their respective fields as defined in their statutes. Each such organization or agency should be brought into relationship with the Organization on terms to be determined by agreement between the Economic and Social Council and the appropriate authorities of the specialized organization or agency, subject to approval by the General Assembly.

B. *Composition and Voting*

The Economic and Social Council should consist of representatives of eighteen members of the Organization. The States to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such State should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

C. *Functions and Powers of the Economic and Social Council*

The Economic and Social Council should be empowered :—

(*a*) To carry out, within the scope of its functions, recommendations of the General Assembly ;

(*b*) To make recommendations on its own initiative with respect to international, economic, social, and other humanitarian matters ;

(*c*) To receive and consider reports from the economic, social, and other organizations or agencies brought into relationship with the Organization, and to co-ordinate their activities through consultations with, and recommendations to such organizations or agencies ;

(*d*) To examine the administrative budgets of such specialized organizations or agencies with a view to making recommendations to the organization or agencies concerned ;

(*e*) To enable the Secretary-General to provide information to the Security Council ;

(*f*) To assist the Security Council upon its request ; and

(*g*) To perform such other functions within the general scope of its competence as may be assigned to it by the General Assembly.

D. *Organization and Procedure*

1. The Economic and Social Council should set up an Economic Commission, a Social Commission, and such other Commissions as may be required. These Commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.

2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.

3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its president.

Chapter X.—The Secretariat

1. There should be a secretariat comprising a Secretary-General and such staff as may be required. The Secretary-General should be the chief administrative officer of the Organization. He should be elected by the General Assembly on recommendation of the Security Council, for such term and under such conditions as are specified in the Charter.

2. The Secretary-General should act in that capacity in all meetings of the General Assembly, of the Security Council, and of the Economic and Social Council, and should make an annual report to the General Assembly on the work of the Organization.

3. The Secretary-General should have the right to bring to the attention of the Security Council any matter which in his opinion may threaten international peace and security.

Chapter XI.—Amendments

Amendments should come into force for all members of the Organization when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization.

Chapter XII.—Transitional Arrangements

1. Pending the coming into force of the special agreement or agreements referred to in Chapter VIII, section B, paragraph 5, and in accordance with the provisions of paragraph 5 of the Four-Nation Declaration, signed at Moscow, the 30 October 1943, the State parties to that Declaration should consult with one another and as occasion arises with other members of the Organization with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

2. No provision of the Charter should preclude action taken or authorized in relation to enemy states as a result of the present war by the Governments having responsibility for such action.

APPENDIX IV

AMENDMENTS ADVANCED BY NEW ZEALAND

To the Dumbarton Oaks Proposals for the Establishment of a General International Organization

[New words are shown in *italics*, deletions in ~~erasure type~~]

Chapter I.—Purposes

1. To maintain international peace and security *and to preserve as against external aggression the territorial integrity and political independence of every member of the Organization;* and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means the adjustment or settlement of international disputes which may lead to a breach of the peace.

Chapter II.—Principles

[New paragraphs, 1a, 2a, 4a, proposed]

1a. All members of the Organization solemnly reaffirm and pledge themselves to the principles of the Atlantic Charter of 14 August 1941 and the United Nations Declaration of 1 January 1942.

2a. All members of the Organization undertake to preserve, protect and promote human rights and fundamental freedoms, and in particular the rights of freedom from want, freedom from fear, freedom of speech and freedom of worship.

4a. All members of the Organization undertake collectively to resist every act of aggression against any member.

Chapter IV.—Principal Organs

[New paragraph, (*b* i) proposed]

(*b* i) *An Economic and Social Council.*

Chapter V.—The General Assembly

B. *Functions and Powers*

[New paragraph, *o.* 1, proposed]

o. 1. The General Assembly shall have the right to consider any matter within the sphere of international relations.

1. *In particular* the General Assembly should have the right to consider the general principles of co-operation in the maintenance of international peace and security including the principles governing disarmament and the regulation of armaments; to discuss any questions relating to the maintenance of international peace and security brought before it by any member or members of the Organization or by the Security Council; and to make recommendations with regard to any such principles or questions. Any such questions on which action is necessary should be referred to the Security Council by the General Assembly either before or after discussion. ~~The General Assembly should not on its own initiative make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council.~~

2. The General Assembly should be empowered to admit new members to the Organization. ~~upon the recommendation of the Security Council.~~

3. The General Assembly should, upon the recommendations of the Security Council, be empowered to suspend from the exercise of any rights or privileges of membership any member of the Organization against which preventive or enforcement action shall have been taken by the Security Council *or which in any way shall have violated the obligations of membership.* The exercise of the rights and privileges thus suspended may be restored by the decision *of the General Assembly upon recommendation* of the Security Council. The General Assembly should be empowered upon the recommendation of the Security Council to expel from the Organization any member of the Organization which persistently violates the principles contained in the Charter.

Chapter VI.—The Security Council

A. *Composition*

The Security Council should consist of one representative of each of eleven members of the Organization. Representatives of the United States, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, the Republic of China, and in due course, France should have permanent seats. The General Assembly should elect six States to fill the non-permanent seats. *Unless the General Assembly otherwise decides* these six States should be elected for a term of two years, three retiring each year, *and* they should not be immediately eligible for re-election. In the first election of the non-permanent members three should be chosen by the General Assembly for one-year terms and three for two-year terms.

Chapter VIII.—Arrangements for the Maintenance of International Peace and Security, including the Prevention and Suppression of Aggression.

(b) Determination of Threats to the Peace or Acts of Aggression, and Action with respect thereto

[New paragraph, 4A, proposed]

4A. (a) A decision of the Security Council involving the application of the measures contemplated in paragraphs (3) and (4) of Chapter VIII, Section (b), shall require the concurring vote of the General Assembly, deciding by a simple majority.

(b) Nevertheless, in any case which, in the opinion of the Security Council, is of extreme urgency the Security Council may decide to apply such measures forthwith without the concurring vote of the General Assembly but in every such case it shall forthwith report its decision to the General Assembly.

(c) Every decision made in accordance with subparagraphs (a) and (b) of this paragraph shall be binding on all members of the Organization,

5. In order that all members of the Organization should contribute to the maintenance of international peace and security, they should undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements concluded ~~among themselves~~ *with it,* armed forces, facilities and assistance necessary for the purpose of maintaining international peace and security. Such agreement or agreements should govern the numbers and types of forces and the nature of the facilities and assistance to be provided. The special agreement or agreements should be negotiated as soon as possible, and should in each case be subject to approval by the Security Council and to ratification by the signatory States in accordance with their constitutional processes.

C. Regional Arrangements

1. Nothing in the Charter should preclude the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided such arrangements or agencies and their activities ~~are consistent with the purposes and principles of the Organization~~ *are approved by the Organization as being consistent with its purposes and principles.* The Security Council should encourage settlement of local disputes through such regional arrangements or by such regional agencies, either on the initiative of the States concerned or by reference from the Security Council.

Chapter IX.—Arrangements for International Economic and Social Co-operation

B. *Composition and Voting*

Unless the General Assembly otherwise decides the following provisions will be in force :—

The Economic and Social Council should consist of representatives of eighteen members of the Organization. The States to be represented for this purpose should be elected by the General Assembly for terms of three years. Each such State should have one representative, who should have one vote. Decisions of the Economic and Social Council should be taken by simple majority vote of those present and voting.

D. *Organization and Procedure*

~~1. The Economic and Social Council should set up an Economic Commission, a Social Commission, and such other Commissions as may be required. These Commissions should consist of experts. There should be a permanent staff which should constitute a part of the Secretariat of the Organization.~~

~~2. The Economic and Social Council should make suitable arrangements for representatives of the specialized organizations or agencies to participate without vote in its deliberations and in those of the commissions established by it.~~

~~3. The Economic and Social Council should adopt its own rules of procedure and the method of selecting its president.~~

The Economic and Social Council may set up such subordinate bodies and make such arrangements concerning its organization and procedure as it may decide. World Organizations concerned with industry, agriculture, labour, and other subjects within the competence of the Economic and Social Council, including the International Labour Organization, and such specialized Organizations or Agencies as may be brought into relationship with the Organization, shall be represented, where appropriate, on the subordinate bodies which the Economic and Social Council may set up.

Chapter X.—The Secretariat

4. The responsibilities of the Secretary-General and staff of the Organization shall be exclusively international in character. They shall not seek or receive instructions in regard to the discharge of such responsibilities from any authority external to the Organization and shall avoid any action which might prejudice their position as international officials. The members of the Organization undertake fully to respect the international character of the responsibilities of the Secretary-General and staff and not to seek to influence any of their nationals in the discharge of such responsibilities.

5. In appointing the staff the Secretary-General shall, subject to the paramount importance of securing the highest standards of efficiency and of technical competence, pay due regard to the importance of selecting staff recruited on as wide a geographical basis as possible.

APPENDIX V

CONCLUSIONS ON GENERAL INTERNATIONAL ORGANIZATION

Reached at the Australian-New Zealand (Wellington) Conference, November 1944

1. Australia and New Zealand desire to play their full part in the establishment of a General International Organization for the purpose of preserving international peace and security and promoting human welfare.

2. In order that such Organization may bring into being an effective and lasting system of collective security, all the members should pledge themselves to co-operate in carrying out, by force if need be, the decisions of the Organization for the preservation of peace.

3. The Charter of the Organization should make clear to the peoples of the world the principles on which the action of the Organization is to be based.

4. It should be a positive principle of the Organization, openly declared and binding upon all members, that the territorial integrity and political independence of members should be preserved against change by force or threat of force from another Power. Provision should be made by the Organization for facilitating the orderly change of situations the continuance of which might endanger the peace of the world.

5. The Charter of the Organization should embody the essential principles of the Atlantic Charter and the Philadelphia Declaration.

6. The Organization should be open to all sovereign States, subject to approval of their admission by the Assembly.

7. The success of such an Organization will depend upon the leadership of the Greater Powers, but it is essential that all members should actively participate in the general control and direction of its affairs.

To this end, the powers and functions of the Assembly should be such as to enable it at any of its meetings to deal with any matter within the sphere of action of the Organization, subject only to the executive powers of the Security Council in regard to the settlement of disputes and the action to be taken against an aggressor.

8. There should be the maximum employment of the International Court of Justice for the ascertainment of facts which may be in dispute.

9. The Security Council should be limited in numbers, while being as representative as possible, and for the purpose of preserving security should be vested with wide powers.

10. The specialized bodies set up separately for various purposes of international welfare should be brought within the framework of the Organization.

11. Powers responsible for dependent territories should accept the principle of trusteeship, already applicable in the case of mandated territories. In such dependent territories the purpose of the trust is the welfare and advancement of the Native peoples. Colonial Powers should undertake to make regular reports to an international body analogous to the Permanent Mandates Commission, set up within the framework of the General Organization. This body should be empowered to publish reports of its deliberations and to inspect dependent territories.

12. For the new Organization to fulfil its task, the condition underlying all others is that the members should fully honour the obligations which they assume.

Approximate Cost of Paper.—Preparation, not given; printing (260 copies), £190.

Price 2s. 3d.]

By Authority: E. V. Paul, Government Printer, Wellington. 1945.