

# THE STRUCTURE OF THE INTERNATIONAL ORGANIZATION

## I

In the discussions and negotiations which preceded the founding of the League of Nations, it was generally assumed that the League should consist of two principal organs, an Assembly comprising all members and meeting relatively seldom, and a Council comprising a few members, meeting often and in certain respects serving as an executive organ. At first, however, this particular method of organization was not quite taken for granted. In some of the first drafts, only one principal organ, corresponding to the League Assembly which came into existence later, was contemplated. On the other hand, the proposal was also put forward that a Council, on which a number of members would have seats, should be the single co-ordinating organ of the League. Thus, the Scandinavian Committees, which in 1918 were appointed by their Governments to investigate these matters, suggested that the States who joined the new international organization should give requisite powers to an international council of fifteen members elected by them; but it should be observed that the chief function of this council was to serve as the central organ of the contemplated investigation and conciliation procedure and that it was not to possess the comprehensive powers which, under the League Covenant that was later adopted, were conferred upon the organs of the League (Report on an Inter-

national Order of Justice, 1919). At the opening of the Peace Conference in Paris there seems to have been almost unanimous agreement on the principle that the activities of the League should be exercised by an Assembly and a Council, and on this point there was very little discussion.

Under the Covenant, which has not been amended in this respect, the Assembly shall consist of representatives of all the members of the League. Each State member of the League has one vote, and may not have more than three representatives. As a general rule agreement is required for a decision—except for elections and matters of procedure. There were no marked differences of opinion as to the wording of these provisions. On some points, however, other arrangements than those laid down in the Covenant were urged. On the one hand, it was suggested that a State's representatives in the Assembly should represent different sections of opinion within the nation, and not the Government of the State, or that collaterally with the Assembly special delegations appointed by parliaments or other organizations should be set up. On the other hand, the possibility of a modification of the basic principle of one vote for each State was contemplated; in 1919, Switzerland suggested in a memorandum that, in certain cases, for an affirmative decision a majority vote by the members of the League which also represented a majority of the population of the Member States should be required. After the founding of the League the question of the composition of the Assembly and the status of the members within it has not occasioned differences of opinion or suggestions for reform of any great importance.

According to the original wording of the Covenant, the Council was to consist of representatives of the principal Allied

and Associated Powers (the United States of America, the British Empire, France, Italy and Japan) together with four other members of the League. A distinction was thus made between permanent and non-permanent seats on the Council. The occupants of non-permanent seats were to be selected by the Assembly from time to time in its discretion; until the first selection took place, Belgium, Brazil, Spain and Greece were given such seats. With the approval of the Assembly the Council could increase the number of permanent and non-permanent seats. Each member of the League represented on the Council was to have one vote and one representative; as in the Assembly, decisions were, as a general rule, to require agreement.—This organization of the Council was the result of a compromise. It had been urged in certain earlier proposals that the Council should consist exclusively of representatives of the Allied Great Powers; other proposals had urged that all the members of the Council should be appointed by the Assembly with equal rights for all members of the League. The opinion that the Great Powers should have a leading position on the Council was based particularly on the fact that the Council was to have the right of determination with respect to the application of military sanctions. According to the proposals submitted to the Peace Conference by Sweden the smaller States should have just as many representatives on the Council as the Great Powers; in addition, provisions as to the method of electing non-permanent members of the Council should be included in the Covenant.

As it turned out in actual fact, since the United States did not join the League, the Council consisted at first of an equal number of permanent and non-permanent members; the Great

Powers did not obtain the intended majority. Later, the composition of the Council underwent a series of changes. According to the Covenant new seats on the Council could be established by the decision of the Council with the approval of the majority of the Assembly. In 1922 the number of members was raised to ten, in 1926 to fourteen, in 1933 to fifteen and in 1934 to sixteen; after 1935 the Council consisted—except for a short period—of fifteen members. Great Powers were given permanent seats on their entry into the League (Germany 1926, the Soviet Union 1934). The chief effect of the changes, however, was that the number of non-permanent seats occupied by the small Powers was increased in relation to the number of permanent seats occupied by the Great Powers. In 1920 there were four Great Powers and four small States on the Council; in 1939, after Germany, Japan and Italy had withdrawn from the League, there were three Great Powers (Great Britain, France and the Soviet Union) and twelve small States.

Alterations in the composition of the Council were usually preceded by lengthy deliberations and pronounced differences of opinion. One of the general arguments advanced in favour of enlarging the Council was the increase in the number of League Members; at first, there were about forty, but during the 'twenties the figure rose to over fifty. Other factors were, however, of greater importance. Several States of the intermediate type put forward claims for permanent seats, and their claims were met in so far as their temporary mandates were renewed time and again. Other States of the same type, although not asking for permanent seats, demanded re-election to the Council and for various reasons had their demands fulfilled. A threat to withdraw from the League unless such claims

were granted was not infrequent, and in a couple of cases withdrawal actually took place on these grounds. In this manner seats of a semi-permanent nature came into being; such States as China, Poland, Spain and Brazil occupied non-permanent seats for a disproportionate length of time. In these circumstances, it became necessary to increase the number of non-permanent seats in order to bring about an alteration in the composition of the Council. It also happened that on grounds of geographical or other affinity certain groups of States jointly claimed representation. By degrees a system was, in fact, evolved by which several seats were divided among different groups of States. It was thus assumed that the Northern States were to have one seat, the South and Central American States three seats, the Asiatic States at least one seat, and so on.

The difficulty of distributing the seats on the Council emerged with particular clarity in the famous Council crisis of March 1926. When Germany was about to enter the League and by agreement obtain a permanent seat, no less than four States (China, Poland, Spain and Brazil) also demanded permanent seats. For some days the resulting differences of opinion seemed to threaten the very existence of the League. The outcome was that Germany's entry had to be postponed; and Brazil withdrew from the League. Sweden, which was definitely opposed to any alteration in the composition of the Council with the exception of the establishment of a permanent seat for Germany, tried in vain to bring about a solution by offering to surrender her own non-permanent seat. In the autumn of the same year a settlement was arrived at, which for one thing included an increase of the number of non-permanent seats from six to nine.

With the enlargement of the Council a tendency that had been noticeable from the beginning was increased, a tendency to give preliminary consideration to and in reality to decide on delicate questions in an inner circle of the Council—usually consisting of the Great Powers. On several occasions “the inner council” emerged as the really deciding body, the other members of the Council simply having to approve a settlement which had already been arrived at by the Great Powers. This state of affairs was often criticized, not least in Sweden and in the other Northern States; it was maintained that the equality of status on the Council which the Covenant prescribed, was not being upheld, and the Great Powers were accused of pushing aside the small States. The argument advanced in reply was that the Great Powers did not occupy a position on the Council corresponding to their strength and that if positive results were to be attained, settlements between them were in fact necessary. How could it be expected, it has been said, that for instance Guatemala and Panama could in reality be given equality of status on the Council with Great Britain, France and Japan? The proposals for a more thorough revision of the composition of the Council which were made in connection with these disputes, will be taken up shortly.

On the whole, Sweden—and the Northern States in general—adopted a negative or hesitating attitude to demands for the enlargement of the Council. It was feared that such an enlargement would strengthen the Council at the expense of the Assembly and consequently increase the influence of the Great Powers in relation to that of the small States. The attitude to the problem of the Council was, therefore, in very large part conditioned by that distrust of the Great Powers and that be-

lief in the small States as the guardians of justice which were typical of Swedish and Northern policy. A critical attitude was also noticeable to proposals aiming at prolonging the mandates of the intermediate Powers and thus giving such States a specially privileged status; the Swedish representatives opposed all plans to divide the members of the League into separate classes or categories and often insisted that "the legal equality of the States is one of the basic principles on which the whole system of the League is built" (The Swedish Foreign Minister, Mr. Löfgren, in the First Committee of the Assembly, the 10th September 1926). On several occasions (chiefly during the Council crisis of 1926) the contributions of the Swedish delegation on this point were important and attracted attention. In unofficial Swedish debates on the subject it seems often to have been assumed that a truly democratic organization should imply the general equality of all States, i. e. that all legal distinctions between Great Powers and small States should be removed. The special position of the Great Powers on the Council seems to have been regarded as an arrangement contrary to principle, which could only be approved on the grounds of inevitable political exigencies.

Also in the matter of the method of electing the non-permanent members of the Council and related provisions several important amendments were made after the founding of the League, and here too the Swedish delegation was one of the most active. At the Assembly of 1920 the three Scandinavian States proposed inter alia that a member of the Council who had been appointed for one term (suggested to comprise four years) should not be re-elected for the term immediately following; this started a Northern action for rotation of the

non-permanent seats on the Council which later on had important results. In 1920, success on this point was not achieved. Instead, the Assembly adopted a resolution according to which the mandates of the non-permanent members of the Council mentioned in the Covenant were to expire at the end of the year; at the new election the voting was to be secret and if in a particular case an absolute majority were not obtained, a new ballot was to be held for the two members who in the first one had gained the greatest number of votes. The voting procedure thus established was in the main retained thereafter. The 1921 Assembly added a paragraph to Article 4 of the Covenant, laying down that by a two-thirds majority the Assembly should fix "the rules dealing with the election of the non-permanent members of the Council, and particularly such regulations as relate to their term of office and the conditions of re-eligibility". The provision was duly ratified and in 1926 the Assembly adopted a number of rules dealing with elections to the Council which were afterwards applied. The decision was a victory for the principle of rotation. Each year three members were to be elected for a three-year term. Re-election immediately after the end of a term could not take place except by special decision of the Assembly passed by a two-thirds majority; under no circumstances might more than three members who had been re-elected in this way have seats on the Council at the same time. By a two-thirds majority the Assembly might decide that a simultaneous re-election should take place to all non-permanent seats on the Council—a possibility that was never resorted to. When new non-permanent seats were established in the 'thirties no fundamental changes were made in the provisions laid down in 1926.



On several occasions the Assembly adopted recommendations stressing that non-permanent members of the Council should represent different categories of States in the League. Most outstanding was the decision made for the first time in 1922 that it was "desirable that the Assembly, in electing the six non-permanent members of the Council, should make its choice with due consideration for the main geographical divisions of the world, the great ethnical groups, the different religious traditions, the various types of civilisation and the chief sources of wealth".

The system which was in fact employed in electing members of the Council in accordance with these provisions was, as already indicated, a synthesis of different points of view. Certain States, Poland and Spain, in reality obtained semi-permanent seats; time after time the League Assembly decided with the requisite two-thirds majority and under considerable pressure from these States that their mandates were to be renewed immediately, whereupon re-election took place; it even happened that the decision as to re-eligibility was made before the term of mandate expired. On the other hand, as regards the majority of the other non-permanent seats on the Council a strict system of rotation was applied, the seats being occupied in turn by States belonging to different groups. In a report submitted in 1936 by a committee appointed by the Council to investigate the question, it was stated that two seats had been occupied by Poland and Spain since 1926 and 1928 respectively, and that during the past decade seven seats had been regularly divided among five groups; three seats had been considered due to the Central and South American States, one seat to one of the States of the Little Entente, one to a so-called

ex-neutral State, one to a British Dominion and one to an Asiatic State. This arrangement was subjected to criticism on various and partly incompatible grounds. The existence of semi-permanent seats on the Council was contrary to the system of rotation which was laid down in 1926 and the fundamental value of which was often insisted upon, amongst others, with special emphasis, by the Northern States. But the system of rotation applied in the case of the majority of the seats led to strange consequences from other points of view. States exceedingly weak in power and authority became members of the Council in accordance with the principles of the system; thus for instance, during certain periods Guatemala, Salvador and Panama occupied non-permanent seats. The most effective criticism, however, came from States who did not belong to any definite group and thus had little chance of obtaining a seat on the Council. It is typical that the two committees which were appointed in the 'thirties to investigate the Council question confined themselves to proposing an enlargement of the Council in order to satisfy the demands of certain States for seats (Reports of 1933 and 1936) and that these proposals were approved by the Assembly without any general revision of the provisions for the election of non-permanent members of the Council taking place.

More than once the suggestion was made, for instance by Norway, that the non-permanent members of the Council should be elected by the proportional suffrage method or according to the "single transferable vote" system. In this way groups of States which had no chance of obtaining a majority for a candidate, would be given the possibility of representation on the Council, which would then become more representative

of the League as a whole. In 1926 Norway suggested that when three seats were vacant, every group comprising more than one fourth of the members of the Assembly should be allowed to appoint one member of the Council. It is true that this and other suggestions resulted in a recommendation to the Council to study the matter but they were not much debated and seemed to have awakened very little interest. Another proposal was that the non-permanent seats should not be filled by the Assembly but distributed among different groups of States; according to one suggestion, half the seats were to be filled by voting in the Assembly, while the remaining ones were to circulate among the members in alphabetic order.

More radical changes in the organization of the Council were also proposed. The aim behind the demand for a reform of the League which was put forward in 1933 by the Fascist Grand Council was obviously that the Great Powers should be given decisive influence; the principle of maintaining the sovereign rights of the Member States was invoked against it from several different quarters. On the other hand, it was urged both in the deliberations of the League and in private contributions to the discussion (e. g. Rappard, *Problems of Peace*, Second Series, 1928) that the permanent seats on the Council should be abolished and all the seats on it filled by voting in the Assembly. In support of this suggestion the same principles as to democracy in the League were invoked which according to Swedish opinion should logically lead to the absolute equality of States. These suggestions seemed to have won very little support and were never the object of serious debate in the League.

In this respect proposals made in 1926 by the Austrian de-

legation to the League are of great interest. The principle aim of these proposals was to bring about certain modifications in the application of the rotation principle in the Council, but they could also be treated as the basis of a general and important reform of the organization of the Council. The Austrian delegation drew attention to the fact that the Governing Body of the International Labour Organization was, in part, to consist of persons appointed by such Member States as "had the chief industrial importance". In determining the meaning of this expression, use had been made of a method, worked out by the Italian statistician Gini, according to which certain criteria for "industrial importance" were first established, the co-efficients of the separate States calculated in accordance with each criterion and the sum then added up to arrive at a definite result. Among other things, allowance was made for the proportion of the population of the States engaged in industry, railways and shipping; the proportion of the industrial to the total population, and between the railway system and the total area of the country, etc., were also taken into consideration. In the opinion of the delegation it should be possible to make a similar calculation of the "universal importance" of the States, and thus obtain a firm basis for the determination of certain questions connected with the distribution of the seats on the Council. Some of the criteria which in the opinion of the delegation should be employed were the size of the population, the size of the colonies, the character of the frontiers, foreign trade, the mercantile marine, the postal communications with other countries, the volume of literature translated from other languages and published in the country. The different criteria were divided into two main categories: those relating

to the size and extent of the State and those relating to its material and intellectual international relations. The delegation's proposals were not seriously considered. They are interesting, partly because of the idea of grading the importance of the States, partly because of their belief in the possibility of obtaining definite objective results by this means. On reading through the delegation's memorandum it seems clear that in this last respect the value of the statistical methods recommended was exaggerated. The struggle for seats on the Council would surely not be avoided in this way; it would only acquire a more technical and intricate character if the arguments advanced were in terms of criteria and co-efficients instead of in ordinary language.

Questions as to the relative powers of the Assembly and the Council and, in general, the method of arriving at decisions in the League will not be taken up here in detail. It is more appropriate to discuss them when dealing with the various functions which should be exercised by an international organization (conciliation of disputes, enforcement action, etc.). Only one or two comments will be made here.

The relation between the Assembly and the Council was not clearly and fully defined in the League Covenant; this was one of the defects of the League which was most vigorously insisted upon during the debates in Sweden on her entry into it. At the first meeting of the Assembly it was urged in a resolution that it was an error, although a frequent one, to regard the Assembly as a chamber of deputies and the Council as an upper chamber, or the Assembly as possessing legislative and the Council executive authority. The provisions on the general competence of the Assembly and the Council respectively

were identical in wording: authority was prescribed to deal “with any matter within the sphere of action of the League or affecting the peace of the world”. Under the special provisions of the Covenant the Council was authorized to deal with certain matters, the Assembly with others; in some cases authority was conferred on both organs (concurrent authority), in others co-operation between Council and Assembly was presumed (joint authority). In practice, a procedure was at times resorted to which was not clearly authorized by the Covenant. For instance, in 1935 the economic sanctions against Italy were applied after co-operation between Council and Assembly, although such a procedure was not anticipated in the Covenant. In the matter of taking the initiative for military sanctions the competence of the Council was indisputable, but these provisions were never applied. As a rule the Council, at least in the first instance, was authorized to deal with disputes between members of the League.

It has already been mentioned that under the Covenant agreement was generally required for decisions in both the Assembly and the Council—except in matters of election and procedure. The reason constantly given for this was, of course, the sovereignty of the States; in terms of practical politics the adherence to the principle of sovereignty was conditioned by unwillingness to accept the idea of being bound by decisions made by other States. It was often stressed, however, that the League could not attain the desired efficiency without limitation of the principle of sovereignty, in other words, unless the League were transformed, in the customary terminology, from a union of States to a federation of States. It was thought possible that at least in certain cases decisions might be made by abso-

lute or qualified majority. The fact that suggestions such as these were not very seriously considered must obviously be associated with the scepticism with which the League was so very widely regarded and which was, in large part, due to its failure to achieve universality.

Amendments to the Covenant required decision by the Assembly, ratification by the States represented on the Council, and the majority consent of all the Member States. During the preparations leading up to the founding of the League, it was maintained in some quarters that an amendment made in due order should be binding on all members of the League. In actual fact, however, a contrary principle was laid down in the Covenant: each member was at liberty not to accept any amendment made and such a member was then automatically to cease being a member of the League. In practice, it proved exceedingly difficult to effect amendments to the Covenant.

On certain conditions a State could be admitted to the League by a decision of the Assembly made by a two-thirds majority. Any State might withdraw from the League after two years' notice of its intention to do so. Violation of any covenant of the League could lead to expulsion from the League. It happened several times that a State withdrew *de facto* and refrained from participation in all the transactions of the League without waiting for the expiration of the stipulated period of notice.

## II.

In the discussions which have taken place during the present War concerning the structure of a new international organization, it has been said that it is intended to make use of the ex-

perience gained of the activities of the League of Nations during the period between the Wars. It is true that there is no agreement as to where the chief weaknesses in the organization of the League lay. But contributions to the discussion made in authoritative quarters in the leading Allied Nations seem consistently to assume that these States, namely the victorious Great Powers, should have a stronger position in a future international organization than was the case in the League of Nations. This view has been put forward in a number of American, British and Soviet declarations. Typical is Mr. Eden's statement that "the four Great Powers, Great Britain, the United States of America, the Soviet Union and China, must bear the chief responsibility of a stable system of security . . . Those who bear the chief responsibility, who will bear the heaviest burdens, must have the weightiest voice in determining the measures to be taken in the interests of all". The more detailed proposals for a new international organization that are now available will be reviewed below from points of view which are essential in this connection.

In January 1944 proposals for a new international organization, based on the discussions of a group of about two hundred American and Canadian experts, were published (*The American Journal of International Law*, April 1944). The proposed new organization, the Community of States, was to be universal. Its principal organ would be an Assembly meeting annually and in which all the Member States would have one or more representatives; each national delegation should, however, vote as a unit. A fundamental deviation from League procedure lies in the application of graded voting rights. It is maintained in the proposals that if due allowance is not made for the existing



differences between States, it would be impossible to confer on the Assembly the considerable powers it ought to possess. In classifying the States with regard to voting rights, allowance should be made for such varying factors as size of population, amount of contribution to the budget of the organization and the extent of trade and production. Very small States—with a population of less than 100 000—might well be left without a vote. For decisions in the Assembly only a majority vote would normally be required. In some cases a two-thirds majority would be necessary: with this majority and the concurrence of the Council the Assembly could “modify general rules of international law and . . . enact new general rules of international law”. The provisions as to absolute and qualified majorities presuppose, according to the proposals, a system of weighting the votes of States. The Assembly selects an Executive Council meeting at least four times each year and serving as the executive organ. The original members of the Council would be designated at the founding of the Community of States, but later the Assembly would select all members of the Council at its discretion; in this selection the importance of the rôle of the States in international affairs would be given special consideration. It is assumed in the report that although there would be no permanent seats, the leading States would be elected to the Council so long as they acted in a manner consistent with their special responsibilities. No system of rotation should be applied in filling the seats, since the experience of the League of Nations showed that this would often result in States without the requisite power and prestige becoming members of the Council. Unanimity would normally be required for decisions in the Council. In the matter of dispu-

tes between States, the Council, sometimes in co-operation with the Assembly, would have wide powers; it would, briefly expressed, take any measures necessary to prevent the use of force. Amendments could be made to the Charter of the Community of States without the co-operation of all the Member States; the main conditions would be a two-thirds majority in the Assembly and a unanimous decision in the Council; if a certain unspecified number of States later raised objections to the amendment, it would not become effective.

In August 1944 a number of Americans, among them several experts on international affairs, published a set of draft statutes for a new international organization (A Design for a Charter of the General International Organization). In many respects these proposals agree with the ones just described but they also contain original provisions. In the Assembly each State has one vote. In general, a decision requires only an absolute or a qualified majority. The Council shall consist of representatives of eleven States; after five years the number can be raised to fifteen. The original members of the Council are to be designated in the Charter. At the same time certain States will be declared to bear "the chief responsibility for the maintenance of peace" and these States will remain members of the Council "until one or more of them may be replaced by the Assembly on account of essential changes in relative responsibility". The other members of the Council will be chosen by the Assembly on the expiration of the five-year term, their importance and responsibility in international affairs being taken into consideration. In the Council absolute or qualified majority is sufficient for a decision. The permanent members of the Council and representatives appointed by a two-thirds

majority of the Assembly together compose a Security Committee "with responsibility for suppressing the use of force by States in their relations with other States and for carrying out preventive measures as authorized by the Council or the Assembly"; a simple majority vote suffices for a decision in this Committee. Extremely wide powers are conferred on the Council. It is sufficient to say that by a two-thirds majority the Council can decide on all disputes and that by a simple majority it has the right to take action in "any specific situation in which the peace of the world is jeopardized"; in this case the Council can determine what military and economic measures the States are to take to maintain the peace. On "imminent menace to peace" the Security Committee is authorized to act on its own initiative; each State represented on the Committee is obligated to participate with all its resources in any action which the Committee may consider necessary to prevent or suppress the use of force, and the other States are obligated in no way to impede such action.

The proposals drawn up at Dumbarton Oaks assume the establishment of a General Assembly on which all the Member States are represented and where each State has one vote. Under the Dumbarton Oaks Proposals the really executive organ of the new organization will be a Security Council composed of representatives of eleven States. The United States of America, Great Britain, the Soviet Union, China and "in due course" France, are to have permanent seats. The six non-permanent seats are to be filled by election in the Assembly, the terms lasting two years, with renewal of three seats each year. Under no circumstances may immediate re-election occur; in other words, the principle of rotation is accepted.

In the first election of the non-permanent members three will be chosen by the Assembly for one-year terms and three for two-year terms.

The relative powers of the Assembly and the Council are not exhaustively stated in all respects, but it is clear that a pronounced concentration of authority in the Council is assumed. The chief function of the Assembly seems to be to provide a forum for the discussion of the general principles governing the activities of the Organization. Thus the Assembly is to 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." The Assembly will also "receive and consider annual and special reports from the Security Council and reports from other bodies of the Organization". Among the decisions devolving upon the Assembly are certain elections and the regulation of the budgets of the Organization. But when it is a matter of arriving at concrete decisions to maintain peace and security, the Assembly does not, as under the Covenant of the League of Nations, possess powers in part competitive with those of the Council; instead, the authority of the Council is exclusive. The nature and extent of this authority will not be discussed in this connection. Here it may suffice to point out that according to the Proposals "the General Assembly should not on its own initiative make recommendations on any matter relating to the main-

tenance of international peace and security which is being dealt with by the Security Council”.

As to the voting procedure in the Assembly it is prescribed that in general a simple majority vote should be sufficient. In some cases, as in making “recommendations with respect to the maintenance of international peace and security” and in “the election of members of the Security Council”, a two-thirds majority is required. By a simple majority vote the Assembly may transfer other categories of questions to the group to which the two-thirds majority rule applies. The central problem of voting procedure in the Security Council is still not finally settled and consequently the Dumbarton Oaks Proposals have nothing to say on this point.

Amendments to the projected Charter are to come into force when they have been adopted by a vote of two-thirds of the members of the Assembly and ratified by the members of the Organization having permanent membership on the Security Council and by a majority of the other members of the Organization. It is assumed that a member of the Organization will not be able to withdraw from it because it does not accept an amendment to the Charter adopted by this procedure.

The strong position of the Council is also seen in the suggested provisions on admission to and withdrawal from the Organization. It is true that by a two-thirds majority the Assembly may admit new members, but only if they are recommended by the Council. Likewise, it is only on the Council’s recommendation that under certain conditions the Assembly may suspend the exercise of rights and privileges of a member or definitely expel a member who has persistently violated the

principles contained in the Charter; also in these cases a qualified majority is required for a decision in the Assembly.

It is clear that according to the different proposals mentioned above the new organization will attain a far higher degree of strength and result in a greater concentration of power and more effective leadership than the League of Nations. The most striking feature of the first-mentioned proposals is the grading of the influence of the members in the Assembly in accordance with their international importance. The most striking feature of the second set of proposals is that an absolute or qualified majority is sufficient for decisions in the Council and that extremely wide powers are conferred on the Council, respectively the Security Committee, to intervene in disputes or in case of danger of war. The Dumbarton Oaks Proposals also assume a concentration of power in the Council, the composition of which is so regulated that the Allied Great Powers can certainly be expected to become the decisive factor when they are in agreement. Perhaps the most marked common characteristic of the different proposals as compared with the League of Nations is that an absolute or qualified majority is sufficient for making decisions binding on all members of the Organization.

### III

In the following a brief account will be given of the questions connected with the structure of the international organization, which come to the foreground in an examination of the experiences gained and the proposals advanced.

As to *the main structural lines of the organization* there are now

hardly any differences of opinion. The division into an Assembly on which all the members have seats and a Council with a relatively limited membership seems generally considered practical. The proposals of a different type which were advanced for instance in Swedish quarters, before the founding of the League of Nations, envisaged, at any rate as a rule, an organization different in character from the one which is now considered necessary. The Assembly meets the obvious necessity of affording all members of the organization an opportunity to participate in the conduct of its affairs. The Council meets the equally obvious need for an organ that can meet immediately when occasion requires and which is capable of acting with reasonable speed and efficiency. The history of the League of Nations showed that this latter need ought if possible to be fulfilled in a more satisfactory manner than was the case in the League.

The idea of an Assembly representing *different national groups and sections of opinion* within the States concerned, or, alternatively, of some sort of representation of this kind collateral to the Assembly, has found some support earlier, in Sweden as well as elsewhere. It seems incontestable that this is an idea to be borne in mind in so far as an international organization, if it is to develop into a real world State, must represent more than the States belonging to it; only when opinion within the organization is able to break through the frontiers of the States, will the conditions necessary for a welding together be attained. But clearly the time is not yet ripe for such an arrangement; it would be sheer utopianism to recommend it now. Moreover, the universal democracy which is a necessary condition for the election of delegates within the various States, does not

yet exist; while in States governed by the people a real election might be possible, in States differently governed it would be a meaningless formality and, consequently, the States would in practice be represented on entirely different bases.

In the opinion of the study group the provisions suggested in the Dumbarton Oaks Proposals as to *voting procedure in the Assembly*, under which a simple or two-thirds majority suffices for decisions, are a great step forward; the principle of unanimity often made successful activity very difficult in the League of Nations. But it seems inexpedient to prescribe that in principle all "important decisions" should require a two-thirds majority; for one thing, the expression is too vague, for another, some of the questions specified as "important" are such as require a favourable decision if the organization is to function—primarily elections and budgetary questions. At least for these two categories of questions a simple majority vote ought to suffice.

Of both current and central interest, however, is the question of *the relative authority of the States* within the international organization. On this point there have been marked differences of opinion. According to one view, often heard in Sweden, there should in principle be equality of status; equal representation and equal authority for the States have been regarded as tantamount to international democracy, just as general and equal suffrage has been the principal factor in domestic democracy. There is another view according to which the States should at least be differentiated in such a way as to allow a special influence to fall to the share of certain influential and powerful States, the Great Powers; it is held that the organization cannot be effective unless the actual facts of contemporary



power relationships are taken into consideration. According to a third view, which is really a development of the latter and which has only been fully expressed on one or two occasions (the Austrian proposals of 1926 and the American-Canadian proposals of 1944), the influence of the States ought to be more generally differentiated with regard to their power and international importance.

It seems just as warranted in principle as necessary from the point of view of practical politics to establish that international democracy does not involve full equality of all States. The parallel between States and individuals on which this conception is in the last resort based, is quite—the point needs no amplification—without justification. Equality of States which are politically and culturally insignificant with States which stand first in all respects is the opposite of democracy, as every reasonable person must agree; an arrangement by which Guatemala and the United States are given each their vote is profoundly undemocratic. And speaking practically, an attempt to realize the equality of States—it is obvious that it could not be fully attained in fact—is dangerous since the international organization would become less effective in so far as it did succeed. The Great Powers cannot be expected to take orders from the small States.

In very general terms, then, the best solution—until such time as an organization of the type now being planned can be constituted and in connection therewith the rights of States be more clearly defined—can probably be expressed thus: a compromise should be arrived at between the demands which originate in the feeling of national independence and those which arise from the actual distribution of power and the need of effi-

ciency, strength and promptness in the work of the international organization. Equality of status is neither possible nor even desirable, but grading of status ought not to be pushed so far as to make the stipulated influence in the organization fully proportionate to the power or international importance of the States.

In judging the organization of the League of Nations and the closely related Dumbarton Oaks Proposals from this point of view it cannot be denied that here the differentiation between the States is hardly rational. What it chiefly amounts to is that permanent seats on the Council are conferred on certain Powers, the Great Powers or the leading Allied Powers respectively; on the other hand, there is full equality in the Assembly. This principle may seem strange already in view of the fact that the Powers which are thought to have a right to permanent seats on the Council vary exceedingly in population, size and strength; according to the Dumbarton Oaks Proposals, for instance, France is given exactly the same status as the World Powers Great Britain, the United States and the Soviet Union. But it is even more striking that no distinctions at all are made between the States outside the circle of the Great Powers; Brazil, Spain and Poland are given the same status as Nicaragua, Luxemburg and Liberia. Of course it is clear enough that in practice the differentiation will be greater than it looks on paper; in the future Assembly, as in the League of Nations, each of the World Powers will have its satellites and allies, and even second-class Powers will often be able to count on support, based on their relative strength, from another quarter. But from the point of view of the present approach the adjustment of the formal distribution of authority, which would be

arrived at in this way, would in all probability often be irrational and arbitrary.

Consequently, there has been a certain feeling in the study group in favour of a greater degree of differentiation between the States. This has chiefly centred round the voting procedure in the Assembly. Of course, a weighting of the influence of the States simply on the basis of their population is out of the question; to give three votes to China and one to the United States would be just as unreasonable as to treat the United States and Haiti equally. But a gradation based on a number of different factors might be feasible. Each State—apart from the purely miniature ones—might be given one vote, while particularly important States could be granted one or more additional votes. The 1926 proposals of the Austrian Government and the 1944 proposals of the American and Canadian experts provide good examples of possible standards of differentiation which might be employed.

Another method of achieving the same end ought to be mentioned. It might be possible to divide the Assembly into two Chambers: in the one each State would have one vote, in the other graded voting rights would apply (the number of representatives of each State possibly corresponding to the number of its votes). This possibility has been expressed in discussions in Sweden on the subject, although there the main proposal was that the “lower” Chamber should be elected by the citizens of the States members of the organization. But if, for reasons already advanced, it is thought that the representatives in the Assembly should be appointed by the Governments of the States, a two-chamber system of this kind could not serve its purpose. The work of the Assembly would be made more dif-

ficult and all sorts of peculiar and intricate situations would arise in case of differences of opinion between the Chambers. The Swiss proposals of 1919 should also be recalled in this connection: possibly the absolute or qualified majority requirement could, at least in some cases, be applied both to the number of States voting and to the number of votes cast according to a graded scale of voting.

A differentiation of this type would not—as often seems to be assumed—necessarily weaken the influence of the smaller States. On the contrary, and in contrast to certain other suggestions, it might even lead to a strengthening of the position of the Assembly as compared with the Council and thus to a limitation of the dominance of the Great Powers. The fact that the Dumbarton Oaks Proposals do not allow for differentiation in the Assembly may perhaps have to do with the fact that extremely comprehensive powers are conferred on the Council in these Proposals. A differentiation in the Assembly which resulted in a truer reflection in its decisions of the real situation with regard to power than if equal voting rights were applied, might increase the authority of the Assembly and provide a basis for demands for wider powers for that organ.

But a grading of the influence of the members would undoubtedly be very difficult to carry out, and, since the Dumbarton Oaks Proposals do not take up the matter, there is presumably no prospect of such an arrangement being brought into effect simultaneously with the establishment of a new international organization. Consequently, the study group wishes merely to emphasize the importance of the question and the need of its being discussed and investigated in the new organization.

As regards *the composition of the Council*, a possible course would be to fill all the seats by election, provided that a graded scale of voting rights be employed. Otherwise it must become necessary, to assign as suggested in the Dumbarton Oaks Proposals permanent seats to the leading States in the organization. In the matter of selecting members to occupy the non-permanent seats, interest centres round the principle of rotation, which, after being strongly insisted upon, not least in Swedish quarters, was established in the League of Nations and is now retained in a modified form in the Dumbarton Oaks Proposals. The principle is based on the idea that as far as possible the States should have real equality of status. The less the importance attached to the principle of formal equality of status, the less reason there is to maintain the demand for rotation in the Council. It has already been seen that objections can be raised against this demand as such. The rotation principle, as applied in the League of Nations, was one of the reasons why the Council of the League partly consisted of members without power and authority. In a sense it can be said to have thus defeated its own ends: it was an inner circle in the Council that took over the real powers of decision. The principle was not consistently applied: it was sometimes found necessary to grant re-eligibility to particularly important States (Poland, Spain, China). For reasons mentioned above, however, the rotation principle can be recommended if it is assumed that only States of a certain international importance, capable of an independent policy, should be eligible for membership on the Council. No service is done either to the authority of the Council or to the interests of the small States if seats are occupied by States which are in fact entirely dependent on certain Great Powers. Further,

it is of the greatest importance that certain groups of States which are connected with each other by regional propinquity and community of interests should be entitled to representation on the Council.

For this reason and bearing in mind the possibilities of the smaller States to make themselves heard, it is probably desirable that there should be as many members of the Council as suggested in the Dumbarton Oaks Proposals. In other respects it is clearly desirable that the Council should not be too numerous, since this would mean either that its efficiency would be jeopardized or that in practice decisions would rest entirely with a small central group.

The Dumbarton Oaks Proposals assume that the Council may meet in different places; nothing is said as to where the Assembly is to meet and the Secretariat perform its functions, although it is assumed that the Organization shall have fixed headquarters. It seems important that as far as possible the continuous activities of the Organization and the periodical meetings should be located in one and the same place, particularly with regard to the continuity and unity of the work of the Secretariat.

As to *the relative powers of the Assembly and the Council* attention has already been drawn to the fact that to a greater degree than under the Covenant of the League the Council under the Dumbarton Oaks Proposals is the leading and executive body of the Organization. It has also been stressed that with respect to the efficiency of the Organization this circumstance can be expected to be of value; at all events, any considerable increase in the powers of the Assembly could probably hardly be brought about except in connection with important modifications, of

the kind previously indicated, in the structure of the Organization. Thus, even though in the main the Dumbarton Oaks Proposals should be recommended, it seems as if some minor modifications should likewise be recommended. Under the Proposals the Assembly cannot "make recommendations on any matter relating to the maintenance of international peace and security which is being dealt with by the Security Council". As already pointed out, this provision was presumably the consequence of a desire to prevent the exercise of a "double jurisdiction" on the part of the Assembly and the Council (cp. the Debate in the House of Lords on the 11th October, 1944). But this motive could hardly be advanced against the right of the Assembly to give expression whenever it so desires to certain general principles, whether these bear on the questions being dealt with by the Council or not. A provision definitely stating that the Assembly has this right ought, therefore, to be inserted. Perhaps it should also be expressly laid down that the right of the Assembly "to receive and consider annual and special reports from the Security Council" includes the power to adopt resolutions and publish recommendations concerning the activities of the Council and related matters. In this respect the Assembly of the new Organization, like the Assembly of the League of Nations, has an important task to fulfil as an organ of world opinion. It seems obvious that the actual treatment of disputes and the actual determination of measures should devolve upon the Council.—Certain other questions relating to the competence of the Assembly and the Council, particularly the treatment of international disputes, will be taken up in another connection.

As to the provisions in the Dumbarton Oaks Proposals con-

cerning *admission to and withdrawal from the Organization and amendments to the Charter*, the principle laid down in the Proposals seems in itself commendable: namely, that members are not at liberty to withdraw from the Organization at will and are, consequently, also bound by amendments adopted in due order to which they have not agreed. A situation is, however, conceivable in which States de facto place themselves outside the activities of the Organization and thus render its functioning difficult or impossible. If for this reason the Organization were to be unable to fulfil its purpose, the legal position and the line of conduct of the loyal members would inevitably also be affected. It must also be taken for granted that certain basic principles as to the obligations of the members can not be modified without the consent of all members.