have said elsewhere (in my book on the League of Nations, 2nd edit., pp. 128-132). The proposals of the Protocol will be mentioned later. It should be needless to reiterate that this Article has nothing to do with internal disorder. There must be aggression by a foreign Power. Not that underhand encouragement of trouble in your neighbour's territory, or even unfriendly treatment of foreigners within your own, may not be a just and grave cause for complaint and be brought to the notice of the League as a danger to international peace (see Article XI and the reference thereto in Article 5 of the Protocol), but "aggression" cannot be extended beyond overt hostile action of some kind. The most obvious case is that of an attack made in time of peace without other warning than an ultimatum. But resort to arms after a show of negotiation or even submission to judgmnet, under pretence of not being able to obtain justice, is perhaps a less unlikely event (among Members of the League at any rate) and may be not less dangerous. Aggression must, therefore, be understood to include breaking away from a settlement—whether from loss of temper or because there was never a sincere desire for peace—as well as initial breach of the peace. The Protocol makes this explicit: its definition has to be read together with the new extended provisions for arbitration and conciliation which must accordingly now be mentioned.

(2.—Judicial Settlement.)

Article XIV of the Covenant directed the Council to submit plans for the establishment of a permanent Court of international justice (a problem which had baffled the Peace Conference of 1907). The instruction was carried out, and the Court has been open since February, 1922, and has already done a considerable amount of business. It was not found practicable to give it compulsory jurisdiction, but resort to it is encouraged by the amendments to the Covenant adopted in 1921. By Article 3 of the Protocol all parties agree to accept the jurisdiction of the Court as compulsory in any case belonging to a class recognised by them as proper for for judicial settlement. A supreme Court with a merely voluntary jurisdiction does appear odd in the twentieth century, though it may have marked a great advance in judicial reform (as it did in Iceland) some ten centuries earlier. Nevertheless, I do not think this a matter of vital importance, being convinced that the Court, with or without any formal submission, will command the judicial business of nations by its merits. All appearances, so far, point to the machinery of quasi-judicial arbitration set up by The Hague Conferences before the war becoming obsolete. Parties to a dispute however, are free to use it if they please.

By Article XII of the Covenant the Members of the League agree that in every case of "dispute likely to lead to a rupture" among them "they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council," and not go to war till three months after the award, judgment or report as the case may be. This already points to the distinction between "justiciable" and "non-justiciable" questions, which American publicists have made familiar. Some questions are fitter for argument and judgment, others, being of a less definable kind, for settlement by conciliation. It may be useful to add that acts of self-help in the way of taking pledges, as they are known to municipal law and allowed to a limited extent, are known to the law of nations under the not very apt name of reprisals. They do not of themselves create a state of war. Whether they amount to a threat of war under Article XI of the Covenant, or a dispute likely to lead to a rupture under Article XII, seems to depend on the circumstances of each case. It is likewise a distinct question in each case whether the matter giving occasion for reprisals is in any other way within the competence of the League. I do not think that reprisals, unless manifestly frivolous and vexatious, can be held to constitute an aggression. Neither the Covenant nor the Protocol deals expressly with the subject. But obviously such incidents are undesirable at any rate between Members of the League.

Article XIII goes on to provide specifically that the justiciable class of disputes, described as "suitable for submission to arbitration" and expressly including disputes on the interpretation of treaties and other points of international law, shall be dealt with by the Court or some other tribunal agreed on by special or standing convention between the parties. Moreover "the Members of the League agree that they will carry out in full good faith any award or decision that may be rendered, and that they will not resort to war against a Member of the League which complies therewith." If there is failure in carrying out an award the Council is left to see what should be done. So far, then, justiciable disputes are pretty well provided for, assuming that a sufficient number of Members of the League are willing and able to support the law-abiding party at need. In this connection it must be recalled that, even in the days of merely occasional arbitrations, under a special agreement for each case, the cases in which an award failed of performance were very few.

(3.—Non-Justiciable Disputes.)

The really troublesome part of the problem is the handling of non-justiciable disputes; these may be taken as practically coinciding with the class which arbitration treaties of the usual pre-war type relegated to the vague exception of questions touching the honour or vital interests of the parties. Article XV of the Covenant binds the Members of the League to submit such matters to the Council, which thereupon is to effect a settlement if possible. If a settlement is effected the result will be made public with proper explanations. If not, the Council will issue a report (not required to be unanimous) with recommendations. Compliance with recommendations , agreed to by all members of the Council not representing any party to the dispute, must not be treated as a cause of war by any Member of the League (this of course includes any dissatisfied party). But in case of failure to issue a substantially unanimous recommendation the matter is left at large with a general reservation of the Members' rights to do the best they can. In other words, the League abdicates as regards that dispute, and all parties are remitted to the old Law of Nations. One may doubt whether that exact point is likely to be reached in practice. If things did not go better they might well go worse. A Power minded to abate no jot of its claims would choose its own time for self-assertion without much regard to covenanted procedure. Still this impotent conclusion, even as a bare outstanding possibility, is on the face of it a considerable formal defect.

(4.—New Plan of Conciliation.)

Article 4 of the Protocol takes up the burden from the point where the Council's first endeavour to effect a settlement fails. Instead of making a report at that stage the Council is to move the parties to go to the Court or to arbitration. If they cannot agree to this, either party may call for a committee of arbitration (we may pass over the details relating to its composition). Failing any such request, the Council is to reconsider and report; a report substantially unanimous (in the sense above stated) is to be binding. If the Council is divided it must submit the dispute to arbitrators to be chosen by itself. A final judgment or award under these provisions is to be binding on all the parties to the Protocol, and the executive obligations of Article XIII of the Covenant (see p. 10 above) are to be applicable. Ingenious critics are like enough to find holes to pick in this exhaustive scheme, and without trying to find faults in detail it is easy to think it too elaborate at first sight. The answer to this objection, as I have already indicated, is that one main purpose is to gain time, and the device is exceedingly well fitted for that end. If the parties, in the course of these proceedings, think better of it and come to a direct agreement (as parties constantly do in civil litigation and not seldom at an advanced stage), that result will be all to the good. If the procedure is ever carried through it will, at any rate, have a conclusion which the parties to the Protocol have agreed to accept as binding. An auxiliary Article (No. 6) extends the provisions for optional reference to the Assembly to the new procedure; appointment of a committee of arbitration or, in the last resort, of independent arbitrators is reserved to the Council.

Finally it is to be observed that the special inquiries and negotiations to be undertaken in any stage of this process would in fact be worked out, as already indicated in the official commentary on the Covenant, by special committees under the direction of the Council or the Assembly.

(To be continued.)