

PAN-AMERICAN UNION.

Under resolution of the Assembly of 1924 the question of relations between the League of Nations and the Pan-American Union was inscribed on this year's agenda.

The First Committee, after listening to speeches made principally by South American representatives, proposed the following resolution, which was passed by the Assembly at its meeting on the 28th September (Document A. 67):—

“The Assembly—

“Honouring the high ideal of international co-operation which inspired the Colombian proposal as to relations between the League of Nations and the Pan-American Union;

“Reserves the right to examine this proposal when it has learned the outcome of the studies recommended by the Seventh Pan-American Conference in a resolution concerning the relations of Pan-American bodies to other organizations;

“And authorizes forthwith the Secretary-General to maintain such relations for mutual information with the Director-General of the Pan-American Union as may prove desirable.”

REQUIREMENTS FOR VOTING A RESOLUTION REQUESTING AN ADVISORY OPINION FROM THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

This is a somewhat vexed question. Several years ago the Assembly expressed the wish that the Council would have a study made of the question, whether the Council or the Assembly might by a simple majority ask for an advisory opinion within the meaning of Article 14 of the Covenant of the League of Nations?

Article 14 of the Covenant deals with the establishment of the Permanent Court of International Justice, and the last sentence of the Article reads: “The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.”

No study has yet been made.

On 14th September a motion, standing in the names of the delegations of Belgium, the Netherlands, Norway, Sweden, and Switzerland, was submitted to the Assembly. This motion reiterated the request for a study, and expressed the desire that, should the Council be unable to arrive at a decision, the question would be submitted to the Court for an opinion.

The motion was referred to the First Committee.

The position was well put in the Committee by the Belgian delegate. After stating that, in his opinion, the majority rule should be followed, he emphasized that it was an advisory opinion only which would be sought from the Court, and that in making a request to this effect neither the Council nor the Assembly renounced its right to make a decision on the point at issue. Guidance only was sought, and a request for it involved nothing more than procedure and could be determined by a majority vote, especially as the Covenant provided for consultation of the Court. The practice of the Council, however, was to request an opinion only by a unanimous vote.

The delegate of Yugo-Slavia at once joined issue with the representative of Belgium. After mentioning that every advisory opinion given by the Court had been adopted by the Council, he stated, as his opinion, that the Court's advisory opinions were judgments which in practice had the effect of rendering obligatory the jurisdiction of the Court. In the circumstances, the request for an advisory opinion was not a matter of procedure, but a question of principle, requiring the agreement of all the members of the League represented at the meeting (see paragraph 1, Article 5, of the Covenant). He even went so far as to say that, as many States had, when adhering to the Permanent Court, not accepted its compulsory jurisdiction, the request for an advisory opinion should receive a unanimous vote, *including the parties concerned*.

There was an interesting debate of a legal character, with the result that a Drafting Committee was appointed to draw up a motion for submission to the Assembly. The Drafting Committee produced a text which, however, did not meet with the unanimous approval of the First Committee. After further discussion, the following text was accepted.

“The Assembly—

“Whereas by its resolution of September 24th, 1928, it expressed the desire that the Council, when circumstances permitted, would have a study made of the question whether the Council or the Assembly may, by a simple majority, ask for an advisory opinion within the meaning of Article 14 of the Covenant of the League of Nations;

“Observing that such a study has not yet been made and that uncertainty on the matter still persists and may have contributed to diminish the activity of the Permanent Court of International Justice;

“Considering that it is desirable for the security of the legal rights of members of the League of Nations that, in cases where it appears indispensable for the accomplishment of the task of the Council or the Assembly that advice should be obtained on some point of law, such advice should, as a general rule, be requested from the Permanent Court of International Justice;

“Expresses the desire that the Council will examine the question in what circumstances and subject to what conditions an advisory opinion may be requested under Article 14 of the Covenant.”

This motion came before the Assembly on the 28th September and was passed.

The First Committee's report to the Assembly is Document A. 68 (see also Document A. 39).