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The Court concludes that Article 7 of the Mandate is a treaty or convention still in force within the meaning of Article 37 of the Statute of the Court and that the dispute is one which is envisaged in the said Article 7 and cannot be settled by negotiation. Consequently the Court is competent to hear the dispute on the merits.

For these reasons,

THE COURT,

by eight votes to seven,

finds that it has jurisdiction to adjudicate upon the merits of the dispute.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this twenty-first day of December, one thousand nine hundred and sixty-two, in four copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Empire of Ethiopia, the Government of the Republic of Liberia and the Government of the Republic of South Africa, respectively.

(Signed) B. WINIARSKI,
President.

(Signed) GARNIER-COIGNET,
Registrar.

Judge SPIROPOULOS makes the following declaration:

Although the interest of the Governments of Liberia and Ethiopia that the Court should pass upon the violations by South Africa of the Mandate for South West Africa alleged by those Governments is entirely comprehensible, it is not possible for me to follow the reasoning of the Court which leads it to hold that it has jurisdiction.

Can it readily be found that the Mandate is a "treaty or convention" within the meaning of Article 37 of the Statute of the International Court of Justice; that the Mandate, as a "treaty", survived the collapse of the League of Nations (of which the formal act of "dissolution" of the League of Nations was the result); that Article 7 of the Mandate—assuming the Mandate to be in force—

can be relied on by States none of which is a "Member of the League of Nations", that organization no longer being in existence?

It appears to me that any attempt to give an affirmative answer to these questions, and they are not the only ones which arise, must necessarily be based on arguments which, from the standpoint of law, do not seem to me to have sufficient weight.

In these circumstances it is not possible for me to concur in the Court's conclusion. To be upheld, the Court's jurisdiction must be very clearly and unequivocally established, and that does not seem to me to be the case here.

Judges BUSTAMANTE Y RIVERO and JESSUP and Judge *ad hoc* Sir Louis MBANEFO append to the Judgment of the Court statements of their Separate Opinions.

President WINIARSKI and Judge BASDEVANT append to the Judgment of the Court statements of their Dissenting Opinions; Judges Sir Percy SPENDER and Sir Gerald FITZMAURICE append to the Judgment of the Court a statement of their Joint Dissenting Opinion; Judge MORELLI and Judge *ad hoc* VAN WYK append to the Judgment of the Court statements of their Dissenting Opinions.

(*Initialled*) B. W.

(*Initialled*) G.-C.