

will not be affected by reference or omission of reference of it or of other questions to the Board or by the action of the Board on the questions that are referred to it.

This Government is therefore giving instructions to its members of the Joint Board of Engineers in accordance with the joint reports made by the technical officers for the United States and Canada on June 20, 1924 and December 4, 1924. A copy thereof is enclosed. The suggestion made in your note of February 4 last, that the instructions be made public simultaneously in the United States and Canada is agreeable to this Government and it is prepared to make them public on the day which the Canadian Government may designate. It is suggested, however, that this be done on the same date that the correspondence referred to in your note No. 223 of March 5, 1923 is made public.

Accept etc.

FRANK B. KELLOGG

CONTREBANDE
SMUGGLING

944.

L'ambassadeur aux États-Unis au secrétaire aux Affaires étrangères
Ambassador in United States to Foreign Secretary

DESPATCH 615

Washington, May 25, 1922

My Lord,

On the 17th instant I informed your Lordship by telegraph that the Supreme Court of the United States had, two days previously, handed down a decision, arrived at by a majority vote, holding that shipments of intoxicating liquors passing in-transit through the territory of the United States contravene the Eighteenth Amendment to the United States Constitution and the National Prohibition Act. I have now the honour to transmit the text¹ of the opinion of the Supreme Court as delivered by Mr. Justice Holmes together with the text of the dissenting opinion written by Mr. Justice McKenna and concurred in by two of his colleagues on the Bench.

. . .

The decision now rendered by the Supreme Court sets aside the favourable finding of the U.S. District Court for the Eastern District of Michigan and confirms the unfavourable finding of the U.S. District Court for the Southern District of New York. It holds that Article XXIX of the Treaty of 1871 between the United States and Great Britain has been abrogated by the National Prohibition Laws if, indeed, that Article had not been already abrogated as was maintained by Presidents Cleveland and Harrison. The general effect of the Court's judgment is to make illegal all in-transit shipments

¹Non reproduit.

¹Not printed.